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Texas Tax Increment Financing Act

TAX CODE TITLE 3. LOCAL TAXATION SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS CHAPTER 311. TAX INCREMENT FINANCING ACT

Sec. 311.001. SHORT TITLE.

This chapter may be cited as the Tax Increment Financing Act.
Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 311.002. DEFINITIONS.

In this chapter:

(1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations.

"Project costs" include:

- (A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;
- (B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;
- (C) real property assembly costs;
- (D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;
- (E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;
- (F) relocation costs;
- (G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

- (H) interest before and during construction and for one year after completion of construction, whether or not capitalized;
 - (I) the cost of operating the reinvestment zone and project facilities;
 - (J) the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan; and
 - (K) payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.
- (2) "Project plan" means the project plan for the development or redevelopment of a reinvestment zone approved under this chapter, including all amendments of the plan approved as provided by this chapter.
- (3) "Reinvestment zone financing plan" means the financing plan for a reinvestment zone described by this chapter.
- (4) "Taxing unit" has the meaning assigned by Section 1.04.
- Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
- Amended by:
Acts 2005, 79th Leg., Ch. 1094, Sec. 35, eff. September 1, 2005.

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE.

- (a) The governing body of a municipality by ordinance or the governing body of a county by order may 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.
- (b) Before adopting an ordinance or order providing for a reinvestment zone, the governing body of the municipality or county must prepare a preliminary reinvestment zone financing plan. As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.
- (c) Before adopting an ordinance or order providing for a reinvestment zone, the municipality or county must hold a public hearing on the creation of the zone and its benefits to the municipality or county and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality or county.
- (d) A municipality or county proposing to designate a reinvestment zone must provide a reasonable opportunity for the owner of property to protest the inclusion of the property in a proposed reinvestment zone.
- (e) Not later than the 60th day before the date of the public hearing required by Subsection (c), the governing body of the municipality or county must 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. The notice must contain a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The notice may be given later than the 60th day before the date of the public hearing 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) A taxing unit may request additional information from the governing body of the municipality or county proposing to designate a reinvestment zone. The governing body of the municipality or county shall provide the information requested to the extent practicable. In addition to the notice required by Subsection (e), the governing body of the municipality or county proposing to designate a reinvestment zone shall make a formal presentation to the governing body of each municipality, county, or school district, other than the municipality or county proposing to designate the zone, that levies real property taxes in the proposed reinvestment zone. The presentation must include a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The governing body of the municipality or county shall notify each other taxing unit that levies real property taxes in the proposed zone of each presentation to be made to a municipality, county, or school district under this subsection. Members of the governing body of each taxing unit that levies real property taxes in the proposed zone may attend a presentation under this subsection. If agreed to by the municipalities, county, or school districts involved, the governing body of the municipality or county proposing to designate a reinvestment zone may make a single presentation to more than one municipal, county, or school district governing body.

(g) Not later than the 15th day after the date on which the notice required by Subsection (e) is given, each taxing unit that levies real property taxes in the proposed reinvestment zone shall 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 shall notify the governing body of the municipality or county of its designation. At any time after the 15th day after the date on which the notice required by Subsection (e) has been given to every taxing unit, the governing body of the municipality or county proposing to designate a reinvestment zone may call a meeting of the representatives of the taxing units. The governing body of the municipality or county may call as many meetings as it considers necessary. Each representative shall be notified of each meeting in advance. At the meetings the governing body of the municipality or county and the representatives of the other taxing units may discuss the boundaries of the zone, development in the zone, the tax increment that each taxing unit will contribute to the tax increment fund, the retention by a taxing unit of a portion of its tax increment as permitted by Section 311.013, the exclusion of particular parcels of property from the zone, the board of directors for the zone, and tax collection for the zone. On the motion of the governing body of the municipality or county calling the meeting, any other matter relevant to the proposed reinvestment zone may be discussed.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 16, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 14, eff. June 18, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 36, eff. September 1, 2005.

Sec. 311.0031. ENTERPRISE ZONE.

Designation of an area under the following other law constitutes designation of the area as a reinvestment zone under this chapter without further hearing or other procedural requirements other than those provided by the other law:

- (1) Chapter 2303, Government Code; and
- (2) Chapter 373A, Local Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 26, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 16, eff. September 1, 2007.

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE OR ORDER.

(a) The ordinance or order designating an area as a reinvestment zone must:

(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 of the board as provided by Section 311.009 or 311.0091, as applicable;

(3) provide that the zone take effect immediately upon passage of the ordinance or order;

(4) provide a date for termination of the zone;

(5) assign a name to the zone for identification, with the first zone created by a municipality or county designated as "Reinvestment Zone Number One, City (or Town, as applicable) of (name of municipality)," or "Reinvestment Zone Number One, (name of county) County," as applicable, and subsequently created zones assigned names in the same form numbered consecutively in the order of their creation;

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

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the municipality or county; and

(B) the area meets the requirements of Section 311.005.

(b) For purposes of complying with Subsection (a)(7)(A), the ordinance or order is not required to identify the specific parcels of real property to be enhanced in value.

(c) To designate a reinvestment zone under Section 311.005(a)(4), the governing body of a municipality or county must specify in the ordinance or order that the reinvestment zone is designated under that section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 17, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1162, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 36, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.002, eff. September 1, 2007.

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE.

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

(1) substantially arrest or impair the sound growth of the municipality or county 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:

- (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - (B) the predominance of defective or inadequate sidewalk or street layout;
 - (C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
 - (D) unsanitary or unsafe conditions;
 - (E) the deterioration of site or other improvements;
 - (F) tax or special assessment delinquency exceeding the fair value of the land;
 - (G) defective or unusual conditions of title;
 - (H) conditions that endanger life or property by fire or other cause; or
 - (I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;
- (2) be predominantly open 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;
- (3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or
- (4) 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.

(a-1) Notwithstanding Subsection (a), if the proposed project plan for a potential zone includes the use of land in the zone in connection with the operation of an existing or proposed regional commuter or mass transit rail system, or for a structure or facility that is necessary, useful, or beneficial to such a regional rail system, the governing body of a municipality may designate an area as a reinvestment zone.

(b) In this section, "federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.05(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 27, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1137, Sec. 18, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 37, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347, Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.003, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1361, Sec. 1, eff. June 15, 2007.

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE.

(a) A municipality may not create a reinvestment zone if:

- (1) more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or
- (2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality.

(b) A municipality may not change 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.

(c) A municipality may not create a reinvestment zone or change the boundaries of an existing reinvestment zone if the proposed zone or proposed boundaries of the zone contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

(d) For purposes of this section, property is used for residential purposes if it is occupied by a house having fewer than five living units, and the appraised value is determined according to the most recent appraisal rolls of the municipality.

(e) Subsection (a)(1) does not apply to a reinvestment zone designated under Section 311.005(a)(4).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 19, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.004, eff. September 1, 2007.

Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE.

(a) Subject to the limitations provided by Section 311.006, if applicable, the boundaries of an existing reinvestment zone may 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 created the zone.

(b) The governing body of the municipality or county may 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. 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 must conform to the requirements of the applicable subsection of Section 311.009 as applied to the zone after its enlargement. The provision of Section 311.006(b) 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.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 20, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 38, eff. September 1, 2005.

Sec. 311.008. POWERS OF MUNICIPALITY.

(c) The powers authorized by Subsection (b)(2) prevail over any law or municipal charter to the contrary.

(e) The implementation of a project plan to alleviate a condition described by Section 311.005(a)(1), (2), or (3) and to promote development or redevelopment of a reinvestment zone in accordance with this chapter serves a public purpose.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 44, Sec. 2, eff. Oct. 20, 1987; Acts 1999, 76th Leg., ch. 1521, Sec. 1, eff. June 19, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 39, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347, Sec. 2, eff. June 18, 2005.

Sec. 311.008. POWERS OF MUNICIPALITY OR COUNTY.

(a) In this section, "educational facility" includes equipment, real property, and other facilities, including a public school building, that are used or intended to be used jointly by the municipality or county and an independent school district.

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

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

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

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

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

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

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; or

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

(c) The powers authorized by Subsection (b)(2) prevail over any law or municipal charter to the contrary.

(d) A municipality or county may make available to the public on request financial information regarding the acquisition by the municipality or county of land in the zone when the municipality or county acquires the land.

(e) The implementation of a project plan to alleviate a condition described by Section 311.005(a)(1), (2), or (3) and to promote development or redevelopment of a reinvestment zone in accordance with this chapter serves a public purpose.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 44, Sec. 2, eff. Oct. 20, 1987; Acts 1999, 76th Leg., ch. 1521, Sec. 1, eff. June 19, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 39, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094, Sec. 40, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347, Sec. 2, eff. June 18, 2005.

Sec. 311.0085. POWER OF CERTAIN MUNICIPALITIES.

- (a) This section applies only to a municipality that has:
- (1) territory in three counties; and
 - (2) a population of less than 120,000.
- (b) In this section, "educational facility" has the meaning assigned by Section 311.008.
- (c) In addition to exercising the powers described by Section 311.008, a municipality may enter into a new agreement, or amend an existing agreement, with a school district that is located in whole or in part in a reinvestment zone created by the municipality to dedicate revenue from the tax increment fund to the school district for acquiring, constructing, or reconstructing an educational facility located in or outside of the zone.
- Added by Acts 2001, 77th Leg., ch. 1133, Sec. 1, eff. Sept. 1, 2001.

Sec. 311.0087. RESTRICTION ON POWERS OF CERTAIN MUNICIPALITIES.

- (a) This section applies only to a proposed reinvestment zone:
- (1) the designation of which is requested in a petition submitted under Section 311.005(a)(4) before July 31, 2004, to the governing body of a home-rule municipality that:
 - (A) has a population of more than 1.1 million;
 - (B) is located primarily in a county with a population of 1.5 million or less; and
 - (C) has created at least 20 reinvestment zones under this chapter; and
 - (2) that is the subject of a resolution of intent that was adopted before October 31, 2004, by the governing body of the municipality.
- (b) If the municipality imposes a fee of more than \$25,000 for processing the petition, the municipality may not require a property owner who submitted the petition, as a condition of designating the reinvestment zone or approving a development agreement, interlocal agreement, or project plan for the proposed reinvestment zone:
- (1) to waive any rights of the owner under Chapter 245, Local Government Code, or under any agreed order or settlement agreement to which the municipality is a party;
 - (2) to dedicate more than 20 percent of the owner's land in the area described in the petition as open-space land; or
 - (3) to use a nonconventional use pattern for a development to be located within the proposed reinvestment zone.
- Added by Acts 2005, 79th Leg., Ch. 1347, Sec. 3, eff. June 18, 2005.
- Amended by:
Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.005, eff. September 1, 2007.

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS.

- (a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that created the zone that levies taxes on real property in the zone may appoint one member of the board. A unit may waive its right to appoint a director. The governing body of the municipality or county that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the

municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(b) If the zone was designated under Section 311.005(a)(4), the board of directors of the zone consists of nine members. Each school district, county, or municipality, other than the municipality or county that created the zone, that levies taxes on real property in the zone may appoint one member of the board if the school district, county, or municipality has approved the payment of all or part of the tax increment produced by the unit. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. The remaining members of the board are appointed by the governing body of the municipality or county that created the zone.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

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

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

(A) be a qualified voter of the municipality or county, as applicable; or

(B) 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):

(A) be at least 18 years of age; and

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

(f) Each year the governing body of the municipality or county that created the zone shall appoint one member of the board to serve as chairman for a term of one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The board may elect other officers as it considers appropriate.

(g) A member of the board of directors of a reinvestment zone:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 21, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 2, eff. June 18, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 41, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.006, eff. September 1, 2007.

Sec. 311.0091. COMPOSITION OF BOARD OF DIRECTORS OF CERTAIN REINVESTMENT ZONES.

(a) This section applies to a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 1.4 million in which the principal municipality has a population of 1.1 million or more.

(b) Except as provided by Subsection (c), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by the number of members of the board, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director.

(c) If the zone was designated under Section 311.005(a)(4), the board of directors of the zone consists of nine members, unless a greater number of members is necessary to comply with this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by nine, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable.

(d) Members of the board are appointed for terms of two years unless longer terms are provided under Section 11, Article XI, Texas Constitution. Terms of members may be staggered.

(e) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(f) To be eligible for appointment to the board, an individual must:

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

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

(g) Each year the board of directors of a reinvestment zone shall elect one of its members to serve as presiding officer for a term of one year. The board of directors may elect an assistant presiding officer to preside in the absence of the presiding officer or when there is a vacancy in the office of presiding officer. The board may elect other officers as it considers appropriate.

(h) A member of the board of directors of a reinvestment zone:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

Added by Acts 2001, 77th Leg., ch. 1162, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.007, eff. September 1, 2007.

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS.

(a) The board of directors of a reinvestment zone shall make recommendations to the governing body of the municipality or county that created the zone concerning the administration of this chapter in the zone. The governing body of the municipality by ordinance or resolution or the county by order or resolution may authorize the board to exercise any of the municipality's or county's powers with respect to the administration, management, or operation of the zone or the implementation of the project plan for the zone, except that the governing body may not authorize the board to:

(1) issue bonds;

(2) impose taxes or fees;

(3) exercise the power of eminent domain; or

(4) give final approval to the project plan.

(b) The board of directors of a reinvestment zone and the governing body of the municipality or county that creates a reinvestment zone may each enter into agreements as the board or the governing body considers necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes. An agreement may provide for the regulation or restriction of the use of land by imposing conditions, restrictions, or covenants that run with the land. An agreement may 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, or the demolition of public or private buildings. An agreement may dedicate revenue from the tax increment fund to pay the costs of providing affordable housing or areas of public assembly in or out of the zone. An agreement may 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, Chapter 2303, Government Code, in the zone. The term of an agreement with a neighborhood enterprise association may not exceed 10 years.

(c) Subject to the approval of the governing body of the municipality that created the zone, the board of a zone designated by the governing body of a municipality under Section 311.005(a)(4) may exercise the power granted by Chapter 211, Local Government Code, to the governing body

of the municipality that created the zone to restrict the use or uses of property in the zone. The board may provide that a restriction adopted by the board continues in effect after the termination of the zone. In that event, after termination of the zone the restriction is treated as if it had been adopted by the governing body of the municipality.

(d) The board of directors of a reinvestment zone may exercise any power granted to a municipality or county by Section 311.008, except that:

(1) the municipality or county that created the reinvestment zone by ordinance, resolution, or order may restrict any power granted to the board by this chapter; and

(2) the board may exercise a power granted to a municipality or county under Section 311.008(b)(2) only with the consent of the governing body of the municipality or county.

(e) After the governing body of a municipality by ordinance or the governing body of a county by order creates a reinvestment zone under this chapter, the board of directors of the zone may exercise any power granted to a board under this chapter.

(f) The board of directors of a reinvestment zone and the governing body of the municipality or county that created the zone may 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. In this subsection, "local government corporation" means a local government corporation created by the municipality or county under Chapter 431, Transportation Code.

(g) 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) Subject to the approval of the governing body of the municipality that created the zone, 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, may 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 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. For purposes of this subsection, on approval of the municipality, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code.

(i) The board of directors of a reinvestment zone or a local government corporation administering a reinvestment zone may contract with the municipality that created the zone to allocate from the tax increment fund for the zone an amount equal to the tax increment produced by the municipality and paid into the tax increment fund for the zone to pay the incremental costs of providing municipal services incurred as a result of the creation of the zone or the development or redevelopment of the land in the zone, regardless of whether the costs of those services are identified in the project plan or reinvestment zone financing plan for the zone.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 22, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 58, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(23), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 983, Sec. 3, eff. June 18, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 42, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347, Sec. 4, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.008, eff. September 1, 2007.

Sec. 311.01005. COSTS ASSOCIATED WITH TRANSPORTATION OR TRANSIT PROJECTS.

(a) In this section:

(1) "Bus rapid transit project" means a mass transportation facility designed to give preferential treatment to buses on a roadway in order to reduce bus travel time, improve service reliability, increase the convenience of users, and increase bus ridership, including:

(A) a fixed guideway, high occupancy vehicle lane, bus way, or bus lane;

(B) a transit center or station;

(C) a maintenance facility; and

(D) other real property associated with a bus rapid transit operation.

(2) "Rail transportation project" means a passenger rail facility, including:

(A) tracks;

(B) a rail line;

(C) a depot;

(D) a maintenance facility; and

(E) other real property associated with a passenger rail operation.

(b) This section does not affect the power of the board of directors of a reinvestment zone or the governing body of the municipality that creates a reinvestment zone to enter into an agreement under Section 311.010(b) to dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring, constructing, operating, or maintaining property located in the zone or to acquire or reimburse acquisition costs of real property outside the zone for right-of-way or easements necessary to construct public rights-of-way or infrastructure that benefits the zone.

(c) An agreement under Section 311.010(b) may dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring land, or the development rights or a conservation easement in land, located outside the reinvestment zone, if:

(1) the zone is or will be served by a rail transportation project or bus rapid transit project;

(2) the land or the development rights or conservation easement in the land is acquired for the purpose of preserving the land in its natural or undeveloped condition; and

(3) the land is located in the county in which the zone is located.

(d) The board of directors of a reinvestment zone, if all of the members of the board are appointed by the municipality that creates the zone, or the governing body of the municipality that creates a reinvestment zone may enter into an agreement described by Subsection (c) only if:

(1) the board or the governing body determines that the acquisition of the land, or the development rights or conservation easement in the land, located outside the zone benefits or will benefit the zone by facilitating the preservation of regional open space in order to balance the regional effects of urban development promoted by the rail transportation project or bus rapid transit project; and

(2) the municipality that creates the reinvestment zone and the county in which the zone is located pay the same portion of their tax increment into the tax increment fund for the zone.

(e) Property acquired under Subsection (c) may not be acquired through condemnation.

Added by Acts 2005, 79th Leg., Ch. 1134, Sec. 1, eff. June 18, 2005.

Sec. 311.0101. PARTICIPATION OF DISADVANTAGED BUSINESSES IN CERTAIN ZONES.

(a) It is the goal of the legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in *J. A. Croson Company v. City of Richmond* (822 F.2d 1355) and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the zone designated under Section 311.005(a)(4) be given full and complete access to the procurement process whereby supplies, materials, services, and equipment are acquired by the board. It is also the intent of the legislature that to the extent constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall give preference, among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.

(b) It is the intent of the legislature that the zone shall:

(1) implement a program or programs targeted to disadvantaged businesses in order to inform them fully about the zone procurement process and the requirements for their participation in that process;

(2) implement such steps as are necessary to ensure that all disadvantaged businesses are made fully aware of opportunities in the zone, including but not limited to specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the county;

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to maximize participation by disadvantaged businesses as subcontractors. The zone shall be required to evaluate such actions by prime contractors as a factor in the award of contracts within the zone procurement process;

(4) identify disadvantaged businesses in the county that provide or have the potential to provide supplies, materials, services, and equipment to the zone; and

(5) identify barriers to participation by disadvantaged businesses in the zone procurement process, such as bonding, insurance, and working capital requirements that may be imposed on businesses.

(c) It is the intent of the legislature that the zone shall be required to develop a program pursuant to this Act for the purchase of supplies, materials, services, and equipment and that the board of the zone compile a report on an annual basis listing the total number and dollar amount of contracts awarded to disadvantaged businesses during the previous year as well as the total number and dollar amount of all contracts awarded. Such annual report shall be available for inspection by the general public during regular business hours.

(d) The board by rule shall adopt goals for the participation of minority business enterprises and women-owned business enterprises in the awarding of state contracts for professional services. To implement the participation goals, the board shall encourage each issuer to award to minority business enterprises and women-owned business enterprises not less than 15 percent of the total value of all professional services contract awards that the issuer expects to make in its fiscal year.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 23, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.009, eff. September 1, 2007.

Sec. 311.011. PROJECT AND FINANCING PLANS.

(a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that created the zone. The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

(b) The project plan must include:

- (1) a 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 as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

- (1) a detailed list describing the estimated project costs of the zone, including administrative expenses;
- (2) a statement listing the kind, number, and location of all proposed public works or public improvements in the zone;
- (3) an economic feasibility study;
- (4) the estimated amount of bonded indebtedness to be incurred;
- (5) the time when related costs or monetary obligations are to be incurred;
- (6) 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 that levies taxes on real property in the zone;
- (7) the current total appraised value of taxable real property in the zone;
- (8) the estimated captured appraised value of the zone during each year of its existence; and
- (9) the duration of the zone.

(d) The governing body of the municipality or county that created the zone must approve a project plan or reinvestment zone financing plan after its adoption by the board. The approval must 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.

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality or county that created the zone. That approval must be by ordinance, in the case of a municipality, or by order, in the case of a county. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality or county, the approval must be by ordinance or order, as applicable, adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d).

(f) In a zone designated under Section 311.005(a)(4) that is located in a county with a population of 3.3 million or more, the project plan must provide that at least one-third of the tax increment of the zone be used to provide affordable housing during the term of the zone.

(g) 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 the zone unless the governing body of the school district by official action approves the amendment, if the amendment:

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

(2) requires or authorizes the municipality or county creating the zone to issue additional tax increment bonds or notes.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 24, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 4, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 120, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 43, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 14.010, eff. September 1, 2007.

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT.

(a) The amount of a taxing unit's tax increment for a year is 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.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total 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.

(c) The tax increment base of a taxing unit is the total 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.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 983, Sec. 5, eff. June 18, 1999.

Sec. 311.0123. SALES TAX INCREMENT.

(a) In this section, "sales tax base" for a reinvestment zone means the amount of municipal sales and use taxes attributable to the zone for the year in which the zone was designated under this chapter.

(b) The governing body of a municipality may determine, in an ordinance designating an area as a reinvestment zone or in an ordinance adopted subsequent to the designation of a zone, the portion or amount of tax increment generated from municipal sales and use taxes attributable to the zone, above the sales tax base, to be deposited into the tax increment fund. Nothing in this section requires a municipality to contribute sales tax increment into a tax increment fund.

(c) Before the issuance of a bond, note, or other obligation under this chapter that pledges the payments into the tax increment fund under Subsection (b), the governing body of a municipality may enter into an agreement, under Subchapter E, Chapter 271, Local Government Code, to authorize and direct the comptroller to:

(1) withhold from any payment to which the municipality may be entitled the amount of the payment into the tax increment fund under Subsection (b);

(2) deposit that amount into the tax increment fund; and

(3) continue withholding and making additional payments into the tax increment fund until an amount sufficient to satisfy the amount due has been met.

(d) A local government corporation created under Chapter 431, Transportation Code, that has contracted with a reinvestment zone and a municipality under Section 311.010(f) may be a party to an agreement under Subsection (c) and the agreement may provide for payments to be made to a paying agent of the local government corporation.

(e) The sales and use taxes to be deposited into the tax increment fund under this section may be disbursed from the fund only to:

(1) satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for the reinvestment zone;

(2) pay project costs for the zone; and

(3) make payments in accordance with an agreement made under Section 311.010(b) dedicating revenue from the tax increment fund.

Added by Acts 2005, 79th Leg., Ch. 114, Sec. 1, eff. May 20, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 189, Sec. 1, eff. May 23, 2007.

Sec. 311.0125. TAX ABATEMENT AGREEMENTS.

(a) Notwithstanding any provision in this chapter to the contrary, a taxing unit other than a school district may enter into a tax abatement agreement with an owner of real or personal property in a reinvestment zone, regardless of whether the taxing unit deposits or agrees to deposit any portion of its tax increment into the tax increment fund.

(b) To be effective, an agreement to abate taxes on real property in a reinvestment zone must be approved by:

(1) the board of directors of the reinvestment zone; and

(2) 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.

(c) In any contract entered into by the board of directors of a reinvestment zone in connection with bonds or other obligations, the board may covenant that the board will not approve a tax abatement agreement that applies to real property in that zone.

(d) If a taxing unit enters into a tax abatement agreement authorized by this section, taxes that are abated under that agreement are not considered taxes to be imposed or produced by that taxing unit in calculating the amount of:

(1) the tax increment of that taxing unit; or

(2) that taxing unit's deposit to the tax increment fund for the reinvestment zone.

(e) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to approve an agreement to abate taxes on real property in a reinvestment zone under Subsection (b), the board of directors of the reinvestment zone and the governing body of a taxing unit shall consider any recommendation made by the Texas Department of Economic Development or its successor.

Added by Acts 1999, 76th Leg., ch. 983, Sec. 6, eff. June 18, 1999. Amended by Acts 2003, 78th Leg., ch. 978, Sec. 4, eff. Sept. 1, 2003.

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS.

(a) Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) for a taxing unit other than the municipality that created the zone, a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan or a larger portion as provided by Subsection (f).

(c) A taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(d) If the reinvestment zone is created on or after August 29, 1983, 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 the following conditions exist or have been met within the three-year period:

(1) bonds have been issued for the zone under Section 311.015;

(2) the municipality or county that created the zone has acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone.

(e) 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 the following conditions existed or were met before September 1, 1986:

(1) bonds were issued for the zone under Section 311.015;

(2) the municipality acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone.

(f) A taxing unit is not required to pay into the tax increment fund any of its tax increment produced from property located in a reinvestment zone designated under Section 311.005(a) or in an area added to a reinvestment zone under Section 311.007 unless the taxing unit enters into an agreement to do so with the governing body of the municipality or county that created the zone. A taxing unit may enter into an agreement under this subsection at any time before or after the zone is created or enlarged. The agreement may include conditions for payment of that tax increment into the fund and must specify the portion of the tax increment to be paid into the fund and the years for which that tax increment is to be paid into the fund. The agreement and the conditions in the agreement are binding on the taxing unit, the municipality or county, and the board of directors of the zone.

(g) Subject to the provisions of Section 311.0125, 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, a taxing unit, other than a city, may elect to offer the owners of taxable real property in a reinvestment zone created under this chapter an exemption from taxation of all or part of the value of the property. Any agreement concerning an exemption from ad valorem taxes shall be executed in the manner and subject to the limitations of Chapter 312; provided, however, the property covered by the agreement need not be in a zone created pursuant to Chapter 312. A taxing unit may not offer 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).

(h) Repealed by Acts 2003, 78th Leg., ch. 8, Sec. 1, eff. April 24, 2003.

(i) Notwithstanding Subsection (c), a taxing unit is not required to pay into a tax increment fund the applicable portion of a tax increment attributable to delinquent taxes until those taxes are collected.

(j) Section 26.05(f) does not prohibit a taxing unit from depositing all of the tax increment produced by the taxing unit in a reinvestment zone into the tax increment fund for that zone.

(k) A school district is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to the reinvestment zone under Section 311.007(a) or (b) unless the governing body of the school district enters into an agreement to do so with the governing body of the municipality or county that created the zone. The governing body of a school district may enter into an agreement under this subsection at any time before or after the zone is created or enlarged. The agreement may include conditions for payment of that tax increment into the fund and must specify the portion of the tax increment to be paid into the fund and the years for which that tax increment is to be paid into the fund. The agreement and the conditions in the agreement are binding on the school district, the municipality or county, and the board of directors of the zone.

(l) The governing body of a municipality that designates an area as a reinvestment zone may determine, in the designating ordinance adopted under Section 311.003 or in the ordinance adopted under Section 311.011 approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone. If a municipality does not determine the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for a reinvestment zone, the municipality is required to pay into the fund for the zone the entire tax increment produced by the municipality, except as provided by Subsection (b)(1).

(m) The governing body of a municipality that is located in a county with a population of more than 1.4 million but less than 2.1 million or in a county with a population of 3.3 million or more by ordinance may reduce the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone. The municipality may not reduce under this subsection the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone unless the municipality provides each county that has entered into an agreement with the municipality to pay all or a portion of the county's tax increment into the fund an opportunity to enter into an agreement with the municipality to reduce the portion of the tax increment produced by the county that the county is required to pay into the tax increment fund for the zone by the same proportion that the portion of the municipality's tax increment that the municipality is required to pay into the fund is reduced. The portion of the tax increment produced by a municipality that the municipality is required to pay into the tax increment fund for a reinvestment zone, as reduced by the ordinance adopted under this subsection, together with all other revenues required to be paid into the fund, must be sufficient to complete and pay for the estimated costs of projects listed in the reinvestment zone financing plan and pay any tax increment bonds or notes issued for the zone, and any other obligations of the zone.

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (5) of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the

rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction, 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.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 25, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 17.06, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 112, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 983, Sec. 7, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 8, Sec. 1, eff. April 24, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 44, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347, Sec. 5, eff. June 18, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 1.16, eff. May 31, 2006.

Sec. 311.014. TAX INCREMENT FUND.

(a) In addition to the deposits required by Section 311.013, all revenues from the sale of tax increment bonds or notes, revenues from the sale of any property acquired as part of the tax increment financing plan, and other revenues to be used in the reinvestment zone shall be deposited in the tax increment fund for the zone.

(b) Money may 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) dedicating revenue from the tax increment fund, or to repay other obligations incurred for the zone.

(c) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the municipality or county that created the zone.

(d) After all project costs, all tax increment bonds or notes issued for a reinvestment zone, and any other obligations incurred for the zone have been paid, and subject to any agreement with bondholders, any money remaining in the tax increment fund shall be paid to the municipality or county that created the zone and other taxing units levying taxes on property in the zone in proportion to the municipality's or county's and each other unit's respective share of the total amount of tax increments derived from taxable real property in the zone that were deposited in the fund during the fund's existence.

(e) A taxing unit that levies taxes on real property in a reinvestment zone may make a loan to the board of directors of the zone for deposit in the tax increment fund for the zone if the governing body of the taxing unit determines that the loan is beneficial to, and serves a public purpose of, the taxing unit. The loan is payable on the terms agreed to by the taxing unit, or an instrumentality of the taxing unit if applicable, and the board of directors of the zone. A loan under this subsection:

(1) is not considered to be a tax increment bond or note under Section 311.015; and

(2) is considered to be:

(A) an authorized investment under Chapter 2256, Government Code; and

(B) an obligation incurred for the zone.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 26, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 45, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 189, Sec. 2, eff. May 23, 2007.

Sec. 311.015. TAX INCREMENT BONDS AND NOTES.

(a) A municipality creating a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(b) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the reinvestment zone. The governing body of the municipality may pledge irrevocably all or part of the fund for payment of tax increment bonds or notes. The part of the fund pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien against the fund for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

(c) Tax increment bonds are issued by ordinance of the municipality without any additional approval other than that of the attorney general.

(d) Tax increment bonds or notes, together with the interest on and income from those bonds or notes, are exempt from all taxes.

(e) The issuing municipality may provide in the contract with the owners or holders of tax increment bonds that it will pay into the tax increment fund all or any part of the revenue produced or received from the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the bonds. If the municipality agrees, the owners or holders of tax increment bonds may have a lien or mortgage on a facility acquired, improved, or constructed with the proceeds of the bonds.

(f) Tax increment bonds may be issued in one or more series. The ordinance approving a tax increment bond or note, or the trust indenture or mortgage issued in connection with the bond or note, shall provide:

- (1) the date that the bond or note bears;
- (2) that the bond or note is payable on demand or at a specified time;
- (3) the interest rate that the bond or note bears;
- (4) the denomination of the bond or note;
- (5) whether the bond or note is in coupon or registered form;
- (6) the conversion or registration privileges of the bond or note;
- (7) the rank or priority of the bond or note;
- (8) the manner of execution of the bond or note;
- (9) the medium of payment in which and the place or places at which the bond or note is payable;
- (10) the terms of redemption, with or without premium, to which the bond or note is subject;
- (11) the manner in which the bond or note is secured; and
- (12) any other characteristic of the bond or note.

(g) A bond or note issued under this chapter is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued under this chapter or the security of a bond or note issued under this chapter, if the bond or note recites in substance that it was issued by the municipality for a reinvestment zone, the bond or note is conclusively

deemed to have been issued for that purpose, and the development or redevelopment of the zone is conclusively deemed to have been planned, located, and carried out as provided by this chapter.

(h) A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax increment bonds or notes issued under this chapter. Tax increment bonds or notes are authorized security for all public deposits. A person, political subdivision, or public or private officer may use funds owned or controlled by the person, political subdivision, or officer to purchase tax increment bonds or notes. This chapter does not relieve any person of the duty to exercise reasonable care in selecting securities.

(i) A tax increment bond or note is not a general obligation of the municipality issuing the bond or note. A tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter must state the restrictions of this subsection on its face.

(i-1) A municipality's obligation to deposit sales and use taxes into the tax increment fund is not a general obligation of the municipality. An obligation to make payments from sales and use taxes under Section 311.0123 does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter that pledges payments made under Section 311.0123 must state the restrictions of this subsection on its face.

(j) A tax increment bond or note may not be included in any computation of the debt of the issuing municipality.

(k) A municipality may not issue tax increment bonds or notes in an amount that exceeds the total cost of implementing the project plan for the reinvestment zone for which the bonds or notes are issued.

(l) A tax increment bond or note must mature within 20 years of the date of issue.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 114, Sec. 2, eff. May 20, 2005.

Sec. 311.016. ANNUAL REPORT BY MUNICIPALITY.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 977, Sec. 2

(b) The municipality shall send a copy of a report made under this section to the comptroller.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.06(a), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 471, Sec. 1, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 471, Sec. 2, eff. June 11, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 977, Sec. 2, eff. June 18, 2005.

Sec. 311.016. ANNUAL REPORT BY MUNICIPALITY OR COUNTY.

(a) On or before the 90th day following the end of the fiscal year of the municipality or county, the governing body of a municipality or county shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality or county a report on the status of the zone. The report must include:

- (1) the amount and source of revenue in the tax increment fund established for the zone;
- (2) the amount and purpose of expenditures from the fund;
- (3) the amount of principal and interest due on outstanding bonded indebtedness;
- (4) the tax increment base and current captured appraised value retained by the zone; and
- (5) the captured appraised value shared by the municipality or county and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality or county.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 977, Sec. 2

(b) The municipality shall send a copy of a report made under this section to the comptroller.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 1094, Sec. 46

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

- (1) the attorney general; and
- (2) the comptroller.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.06(a), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 471, Sec. 1, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 471, Sec. 2, eff. June 11, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 977, Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1094, Sec. 46, eff. September 1, 2005.

Sec. 311.0163. ANNUAL REPORT BY COMPTROLLER.

(a) Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature and to the governor on reinvestment zones designated under this chapter and on project plans and reinvestment zone financing plans adopted under this chapter.

(b) A report submitted under this section must include, for each reinvestment zone designated under this chapter, a summary of the information reported under Section 311.016.

Added by Acts 2001, 77th Leg., ch. 471, Sec. 3, eff. June 11, 2001.

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE.

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

- (1) the termination date designated in the ordinance or order, as applicable, creating the zone or an earlier termination date designated by an ordinance or order adopted subsequent to the ordinance or order creating the zone; or
- (2) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

(b) The tax increment pledged to the payment of bonds and interest on the bonds and to the payment of any other obligations may be discharged and the reinvestment zone may be

terminated if the municipality or county that created the zone deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for redemption of the bonds, and to pay any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent, as well as to pay the principal of and interest on any other obligations incurred on behalf of the zone.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 46, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 189, Sec. 3, eff. May 23, 2007.

Sec. 311.018. CONFLICTS WITH MUNICIPAL CHARTER.

To the extent of a conflict between this chapter and a municipal charter, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 983, Sec. 8, eff. June 18, 1999.

Sec. 311.019. CENTRAL REGISTRY.

(a) The comptroller shall maintain a central registry of:

- (1) reinvestment zones designated under this chapter;
- (2) project plans and reinvestment zone financing plans adopted under this chapter; and
- (3) annual reports submitted under Section 311.016.

(b) A municipality or county that designates a reinvestment zone or approves a project plan or reinvestment zone financing plan under this chapter shall deliver to the comptroller before April 1 of the year following the year in which the zone is designated or the plan is approved a report containing:

(1) a general description of each zone, including:

- (A) the size of the zone;
- (B) the types of property located in the zone;
- (C) the duration of the zone; and
- (D) the guidelines and criteria established for the zone under Section 311.005;

(2) a copy of each project plan or reinvestment zone financing plan adopted; and

(3) any other information required by the comptroller to administer this section and Subchapter F, Chapter 111.

(c) A municipality or county that amends or modifies a project plan or reinvestment zone financing plan adopted under this chapter shall deliver a copy of the amendment or modification to the comptroller before April 1 of the year following the year in which the plan was amended or modified.

Added by Acts 2001, 77th Leg., ch. 471, Sec. 4, eff. June 11, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 47, eff. September 1, 2005.

Sec. 311.020. STATE ASSISTANCE.

(a) On request of the governing body of a municipality or county or of the presiding officer of the governing body, the comptroller may provide assistance to a municipality or county relating to the administration of this chapter.

(b) The Texas Department of Economic Development and the comptroller may provide technical assistance to a municipality or county regarding:

(1) the designation of reinvestment zones under this chapter; and

(2) the adoption and execution of project plans or reinvestment zone financing plans under this chapter.

Added by Acts 2001, 77th Leg., ch. 471, Sec. 4, eff. June 11, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1094, Sec. 48, eff. September 1, 2005.