

Banned

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Mr. Speaker: I am instructed by the Senate to inform the House of

6084S05.01F

Representatives that the Senate has taken up and passed

SS SCS ACS HB 1865

entitled:

AN ACT

To repeal sections 67.463, 67.469, 67.1305, 135.090, 135.327, 135.535, 135.562, 135.630, 135.647, 135.800, 135.1150, 253.550, and 253.559, RSMo, and to enact in lieu thereof twenty-two new sections relating solely to due diligence given in consideration of economic development incentives, with an emergency clause for a certain section.

WITH SA 1, SA 3, SA 4

EC. ADOPTED

In which the concurrence of the House is respectfully requested.

Respectfully,

Terry L. Spielers
Secretary of the Senate

RECEIVED

MAY 16 2012

CHIEF CLERK

SENATE AMENDMENT NO. 1

Offered by SEN GREEN of 13TH

Amend SS/SCS/HCS/House Bill No. 1865, Page 24, Section 67.3005, Line 17,

2 by inserting after all of said line the following:

3 "99.845. 1. A municipality, either at the time a
4 redevelopment project is approved or, in the event a municipality
5 has undertaken acts establishing a redevelopment plan and
6 redevelopment project and has designated a redevelopment area
7 after the passage and approval of sections 99.800 to 99.865 but
8 prior to August 13, 1982, which acts are in conformance with the
9 procedures of sections 99.800 to 99.865, may adopt tax increment
10 allocation financing by passing an ordinance providing that after
11 the total equalized assessed valuation of the taxable real
12 property in a redevelopment project exceeds the certified total
13 initial equalized assessed valuation of the taxable real property
14 in the redevelopment project, the ad valorem taxes, and payments
15 in lieu of taxes, if any, arising from the levies upon taxable
16 real property in such redevelopment project by taxing districts
17 and tax rates determined in the manner provided in subsection 2
18 of section 99.855 each year after the effective date of the
19 ordinance until redevelopment costs have been paid shall be
20 divided as follows:

21 (1) That portion of taxes, penalties and interest levied

approved 5-16-12
adopted 5-15-12

1 upon each taxable lot, block, tract, or parcel of real property
2 which is attributable to the initial equalized assessed value of
3 each such taxable lot, block, tract, or parcel of real property
4 in the area selected for the redevelopment project shall be
5 allocated to and, when collected, shall be paid by the county
6 collector to the respective affected taxing districts in the
7 manner required by law in the absence of the adoption of tax
8 increment allocation financing;

9 (2) (a) Payments in lieu of taxes attributable to the
10 increase in the current equalized assessed valuation of each
11 taxable lot, block, tract, or parcel of real property in the area
12 selected for the redevelopment project and any applicable penalty
13 and interest over and above the initial equalized assessed value
14 of each such unit of property in the area selected for the
15 redevelopment project shall be allocated to and, when collected,
16 shall be paid to the municipal treasurer who shall deposit such
17 payment in lieu of taxes into a special fund called the "Special
18 Allocation Fund" of the municipality for the purpose of paying
19 redevelopment costs and obligations incurred in the payment
20 thereof. Payments in lieu of taxes which are due and owing shall
21 constitute a lien against the real estate of the redevelopment
22 project from which they are derived and shall be collected in the
23 same manner as the real property tax, including the assessment of
24 penalties and interest where applicable. The municipality may,
25 in the ordinance, pledge the funds in the special allocation fund
26 for the payment of such costs and obligations and provide for the
27 collection of payments in lieu of taxes, the lien of which may be
28 foreclosed in the same manner as a special assessment lien as
29 provided in section 88.861. No part of the current equalized

1 assessed valuation of each lot, block, tract, or parcel of
2 property in the area selected for the redevelopment project
3 attributable to any increase above the total initial equalized
4 assessed value of such properties shall be used in calculating
5 the general state school aid formula provided for in section
6 163.031 until such time as all redevelopment costs have been paid
7 as provided for in this section and section 99.850;

8 (b) Notwithstanding any provisions of this section to the
9 contrary, for purposes of determining the limitation on
10 indebtedness of local government pursuant to article VI, section
11 26(b) of the Missouri Constitution, the current equalized
12 assessed value of the property in an area selected for
13 redevelopment attributable to the increase above the total
14 initial equalized assessed valuation shall be included in the
15 value of taxable tangible property as shown on the last completed
16 assessment for state or county purposes;

17 (c) The county assessor shall include the current assessed
18 value of all property within the taxing district in the aggregate
19 valuation of assessed property entered upon the assessor's book
20 and verified pursuant to section 137.245, and such value shall be
21 utilized for the purpose of the debt limitation on local
22 government pursuant to article VI, section 26(b) of the Missouri
23 Constitution;

24 (3) For purposes of this section, "levies upon taxable real
25 property in such redevelopment project by taxing districts" shall
26 not include the blind pension fund tax levied under the authority
27 of article III, section 38(b) of the Missouri Constitution, or
28 the merchants' and manufacturers' inventory replacement tax
29 levied under the authority of subsection 2 of section 6 of

1 article X of the Missouri Constitution, except in redevelopment
2 project areas in which tax increment financing has been adopted
3 by ordinance pursuant to a plan approved by vote of the governing
4 body of the municipality taken after August 13, 1982, and before
5 January 1, 1998.

6 2. In addition to the payments in lieu of taxes described
7 in subdivision (2) of subsection 1 of this section, for
8 redevelopment plans and projects adopted or redevelopment
9 projects approved by ordinance after July 12, 1990, and prior to
10 August 31, 1991, fifty percent of the total additional revenue
11 from taxes, penalties and interest imposed by the municipality,
12 or other taxing districts, which are generated by economic
13 activities within the area of the redevelopment project over the
14 amount of such taxes generated by economic activities within the
15 area of the redevelopment project in the calendar year prior to
16 the adoption of the redevelopment project by ordinance, while tax
17 increment financing remains in effect, but excluding taxes
18 imposed on sales or charges for sleeping rooms paid by transient
19 guests of hotels and motels, taxes levied pursuant to section
20 70.500, licenses, fees or special assessments other than payments
21 in lieu of taxes and any penalty and interest thereon, or,
22 effective January 1, 1998, taxes levied pursuant to section
23 94.660, for the purpose of public transportation, shall be
24 allocated to, and paid by the local political subdivision
25 collecting officer to the treasurer or other designated financial
26 officer of the municipality, who shall deposit such funds in a
27 separate segregated account within the special allocation fund.
28 Any provision of an agreement, contract or covenant entered into
29 prior to July 12, 1990, between a municipality and any other

1 political subdivision which provides for an appropriation of
2 other municipal revenues to the special allocation fund shall be
3 and remain enforceable.

4 3. In addition to the payments in lieu of taxes described
5 in subdivision (2) of subsection 1 of this section, for
6 redevelopment plans and projects adopted or redevelopment
7 projects approved by ordinance after August 31, 1991, fifty
8 percent of the total additional revenue from taxes, penalties and
9 interest which are imposed by the municipality or other taxing
10 districts, and which are generated by economic activities within
11 the area of the redevelopment project over the amount of such
12 taxes generated by economic activities within the area of the
13 redevelopment project in the calendar year prior to the adoption
14 of the redevelopment project by ordinance, while tax increment
15 financing remains in effect, but excluding personal property
16 taxes, taxes imposed on sales or charges for sleeping rooms paid
17 by transient guests of hotels and motels, taxes levied pursuant
18 to section 70.500, taxes levied for the purpose of public
19 transportation pursuant to section 94.660, taxes imposed on sales
20 pursuant to section 650.399 for the purpose of emergency
21 communication systems, licenses, fees or special assessments
22 other than payments in lieu of taxes and penalties and interest
23 thereon, or any sales tax imposed by a county with a charter form
24 of government and with more than six hundred thousand but fewer
25 than seven hundred thousand inhabitants, for the purpose of
26 sports stadium improvement, shall be allocated to, and paid by
27 the local political subdivision collecting officer to the
28 treasurer or other designated financial officer of the
29 municipality, who shall deposit such funds in a separate

1 segregated account within the special allocation fund.

2 4. Beginning January 1, 1998, for redevelopment plans and
3 projects adopted or redevelopment projects approved by ordinance
4 and which have complied with subsections 4 to 12 of this section,
5 in addition to the payments in lieu of taxes and economic
6 activity taxes described in subsections 1, 2 and 3 of this
7 section, up to fifty percent of the new state revenues, as
8 defined in subsection 8 of this section, estimated for the
9 businesses within the project area and identified by the
10 municipality in the application required by subsection 10 of this
11 section, over and above the amount of such taxes reported by
12 businesses within the project area as identified by the
13 municipality in their application prior to the approval of the
14 redevelopment project by ordinance, while tax increment financing
15 remains in effect, may be available for appropriation by the
16 general assembly as provided in subsection 10 of this section to
17 the department of economic development supplemental tax increment
18 financing fund, from the general revenue fund, for distribution
19 to the treasurer or other designated financial officer of the
20 municipality with approved plans or projects.

21 5. The treasurer or other designated financial officer of
22 the municipality with approved plans or projects shall deposit
23 such funds in a separate segregated account within the special
24 allocation fund established pursuant to section 99.805.

25 6. No transfer from the general revenue fund to the
26 Missouri supplemental tax increment financing fund shall be made
27 unless an appropriation is made from the general revenue fund for
28 that purpose. No municipality shall commit any state revenues
29 prior to an appropriation being made for that project. For all

1 redevelopment plans or projects adopted or approved after
2 December 23, 1997, appropriations from the new state revenues
3 shall not be distributed from the Missouri supplemental tax
4 increment financing fund into the special allocation fund unless
5 the municipality's redevelopment plan ensures that one hundred
6 percent of payments in lieu of taxes and fifty percent of
7 economic activity taxes generated by the project shall be used
8 for eligible redevelopment project costs while tax increment
9 financing remains in effect. This account shall be separate from
10 the account into which payments in lieu of taxes are deposited,
11 and separate from the account into which economic activity taxes
12 are deposited.

13 7. In order for the redevelopment plan or project to be
14 eligible to receive the revenue described in subsection 4 of this
15 section, the municipality shall comply with the requirements of
16 subsection 10 of this section prior to the time the project or
17 plan is adopted or approved by ordinance. The director of the
18 department of economic development and the commissioner of the
19 office of administration may waive the requirement that the
20 municipality's application be submitted prior to the
21 redevelopment plan's or project's adoption or the redevelopment
22 plan's or project's approval by ordinance.

23 8. For purposes of this section, "new state revenues"
24 means:

25 (1) The incremental increase in the general revenue portion
26 of state sales tax revenues received pursuant to section 144.020,
27 excluding sales taxes that are constitutionally dedicated, taxes
28 deposited to the school district trust fund in accordance with
29 section 144.701, sales and use taxes on motor vehicles, trailers,

1 boats and outboard motors and future sales taxes earmarked by
2 law. In no event shall the incremental increase include any
3 amounts attributable to retail sales unless the municipality or
4 authority has proven to the Missouri development finance board
5 and the department of economic development and such entities have
6 made a finding that the sales tax increment attributable to
7 retail sales is from new sources which did not exist in the state
8 during the baseline year. The incremental increase in the
9 general revenue portion of state sales tax revenues for an
10 existing or relocated facility shall be the amount that current
11 state sales tax revenue exceeds the state sales tax revenue in
12 the base year as stated in the redevelopment plan as provided in
13 subsection 10 of this section; or

14 (2) The state income tax withheld on behalf of new
15 employees by the employer pursuant to section 143.221 at the
16 business located within the project as identified by the
17 municipality. The state income tax withholding allowed by this
18 section shall be the municipality's estimate of the amount of
19 state income tax withheld by the employer within the
20 redevelopment area for new employees who fill new jobs directly
21 created by the tax increment financing project.

22 9. Subsection 4 of this section shall apply only to
23 blighted areas located in enterprise zones, pursuant to sections
24 135.200 to 135.256, blighted areas located in federal empowerment
25 zones, or to blighted areas located in central business districts
26 or urban core areas of cities which districts or urban core areas
27 at the time of approval of the project by ordinance, provided
28 that the enterprise zones, federal empowerment zones or blighted
29 areas contained one or more buildings at least fifty years old;

1 and

2 (1) Suffered from generally declining population or
3 property taxes over the twenty-year period immediately preceding
4 the area's designation as a project area by ordinance; or

5 (2) Was a historic hotel located in a county of the first
6 classification without a charter form of government with a
7 population according to the most recent federal decennial census
8 in excess of one hundred fifty thousand and containing a portion
9 of a city with a population according to the most recent federal
10 decennial census in excess of three hundred fifty thousand.

11 10. The initial appropriation of up to fifty percent of the
12 new state revenues authorized pursuant to subsections 4 and 5 of
13 this section shall not be made to or distributed by the
14 department of economic development to a municipality until all of
15 the following conditions have been satisfied:

16 (1) The director of the department of economic development
17 or his or her designee and the commissioner of the office of
18 administration or his or her designee have approved a tax
19 increment financing application made by the municipality for the
20 appropriation of the new state revenues. The municipality shall
21 include in the application the following items in addition to the
22 items in section 99.810:

23 (a) The tax increment financing district or redevelopment
24 area, including the businesses identified within the
25 redevelopment area;

26 (b) The base year of state sales tax revenues or the base
27 year of state income tax withheld on behalf of existing
28 employees, reported by existing businesses within the project
29 area prior to approval of the redevelopment project;

1 (c) The estimate of the incremental increase in the general
2 revenue portion of state sales tax revenue or the estimate for
3 the state income tax withheld by the employer on behalf of new
4 employees expected to fill new jobs created within the
5 redevelopment area after redevelopment;

6 (d) The official statement of any bond issue pursuant to
7 this subsection after December 23, 1997;

8 (e) An affidavit that is signed by the developer or
9 developers attesting that the provisions of subdivision (1) of
10 subsection 1 of section 99.810 have been met and specifying that
11 the redevelopment area would not be reasonably anticipated to be
12 developed without the appropriation of the new state revenues;

13 (f) The cost-benefit analysis required by section 99.810
14 includes a study of the fiscal impact on the state of Missouri;
15 and

16 (g) The statement of election between the use of the
17 incremental increase of the general revenue portion of the state
18 sales tax revenues or the state income tax withheld by employers
19 on behalf of new employees who fill new jobs created in the
20 redevelopment area;

21 (h) The name, street and mailing address, and phone number
22 of the mayor or chief executive officer of the municipality;

23 (i) The street address of the development site;

24 (j) The three-digit North American Industry Classification
25 System number or numbers characterizing the development project;

26 (k) The estimated development project costs;

27 (l) The anticipated sources of funds to pay such
28 development project costs;

29 (m) Evidence of the commitments to finance such development

- 1 project costs;
- 2 (n) The anticipated type and term of the sources of funds
3 to pay such development project costs;
- 4 (o) The anticipated type and terms of the obligations to be
5 issued;
- 6 (p) The most recent equalized assessed valuation of the
7 property within the development project area;
- 8 (q) An estimate as to the equalized assessed valuation
9 after the development project area is developed in accordance
10 with a development plan;
- 11 (r) The general land uses to apply in the development area;
- 12 (s) The total number of individuals employed in the
13 development area, broken down by full-time, part-time, and
14 temporary positions;
- 15 (t) The total number of full-time equivalent positions in
16 the development area;
- 17 (u) The current gross wages, state income tax withholdings,
18 and federal income tax withholdings for individuals employed in
19 the development area;
- 20 (v) The total number of individuals employed in this state
21 by the corporate parent of any business benefitting from public
22 expenditures in the development area, and all subsidiaries
23 thereof, as of December thirty-first of the prior fiscal year,
24 broken down by full-time, part-time, and temporary positions;
- 25 (w) The number of new jobs to be created by any business
26 benefitting from public expenditures in the development area,
27 broken down by full-time, part-time, and temporary positions;
- 28 (x) The average hourly wage to be paid to all current and
29 new employees at the project site, broken down by full-time,

1 part-time, and temporary positions;

2 (y) For project sites located in a metropolitan statistical
3 area, as defined by the federal Office of Management and Budget,
4 the average hourly wage paid to nonmanagerial employees in this
5 state for the industries involved at the project, as established
6 by the United States Bureau of Labor Statistics;

7 (z) For project sites located outside of metropolitan
8 statistical areas, the average weekly wage paid to nonmanagerial
9 employees in the county for industries involved at the project,
10 as established by the United States Department of Commerce;

11 (aa) A list of other community and economic benefits to
12 result from the project;

13 (bb) A list of all development subsidies that any business
14 benefitting from public expenditures in the development area has
15 previously received for the project, and the name of any other
16 granting body from which such subsidies are sought;

17 (cc) A list of all other public investments made or to be
18 made by this state or units of local government to support
19 infrastructure or other needs generated by the project for which
20 the funding pursuant to this section is being sought;

21 (dd) A statement as to whether the development project may
22 reduce employment at any other site, within or without the state,
23 resulting from automation, merger, acquisition, corporate
24 restructuring, relocation, or other business activity;

25 (ee) A statement as to whether or not the project involves
26 the relocation of work from another address and if so, the number
27 of jobs to be relocated and the address from which they are to be
28 relocated;

29 (ff) A list of competing businesses in the county

1 containing the development area and in each contiguous county;

2 (gg) A market study for the development area;

3 (hh) A certification by the chief officer of the applicant
4 as to the accuracy of the development plan;

5 (2) The methodologies used in the application for
6 determining the base year and determining the estimate of the
7 incremental increase in the general revenue portion of the state
8 sales tax revenues or the state income tax withheld by employers
9 on behalf of new employees who fill new jobs created in the
10 redevelopment area shall be approved by the director of the
11 department of economic development or his or her designee and the
12 commissioner of the office of administration or his or her
13 designee. Upon approval of the application, the director of the
14 department of economic development or his or her designee and the
15 commissioner of the office of administration or his or her
16 designee shall issue a certificate of approval. The department
17 of economic development may request the appropriation following
18 application approval;

19 (3) The appropriation shall be either a portion of the
20 estimate of the incremental increase in the general revenue
21 portion of state sales tax revenues in the redevelopment area or
22 a portion of the estimate of the state income tax withheld by the
23 employer on behalf of new employees who fill new jobs created in
24 the redevelopment area as indicated in the municipality's
25 application, approved by the director of the department of
26 economic development or his or her designee and the commissioner
27 of the office of administration or his or her designee. At no
28 time shall the annual amount of the new state revenues approved
29 for disbursements from the Missouri supplemental tax increment

1 financing fund exceed thirty-two million dollars;

2 (4) Redevelopment plans and projects receiving new state
3 revenues shall have a duration of up to fifteen years, unless
4 prior approval for a longer term is given by the director of the
5 department of economic development or his or her designee and the
6 commissioner of the office of administration or his or her
7 designee; except that, in no case shall the duration exceed
8 twenty-three years.

9 11. In addition to the areas authorized in subsection 9 of
10 this section, the funding authorized pursuant to subsection 4 of
11 this section shall also be available in a federally approved
12 levee district, where construction of a levee begins after
13 December 23, 1997, and which is contained within a county of the
14 first classification without a charter form of government with a
15 population between fifty thousand and one hundred thousand
16 inhabitants which contains all or part of a city with a
17 population in excess of four hundred thousand or more
18 inhabitants.

19 12. There is hereby established within the state treasury a
20 special fund to be known as the "Missouri Supplemental Tax
21 Increment Financing Fund", to be administered by the department
22 of economic development. The department shall annually
23 distribute from the Missouri supplemental tax increment financing
24 fund the amount of the new state revenues as appropriated as
25 provided in the provisions of subsections 4 and 5 of this section
26 if and only if the conditions of subsection 10 of this section
27 are met. The fund shall also consist of any gifts,
28 contributions, grants or bequests received from federal, private
29 or other sources. Moneys in the Missouri supplemental tax

1 increment financing fund shall be disbursed per project pursuant
2 to state appropriations.

3 13. Redevelopment project costs may include, at the
4 prerogative of the state, the portion of salaries and expenses of
5 the department of economic development and the department of
6 revenue reasonably allocable to each redevelopment project
7 approved for disbursements from the Missouri supplemental tax
8 increment financing fund for the ongoing administrative functions
9 associated with such redevelopment project. Such amounts shall
10 be recovered from new state revenues deposited into the Missouri
11 supplemental tax increment financing fund created under this
12 section.

13 14. For redevelopment plans or projects approved by
14 ordinance that result in net new jobs from the relocation of a
15 national headquarters from another state to the area of the
16 redevelopment project, the economic activity taxes and new state
17 tax revenues shall not be based on a calculation of the
18 incremental increase in taxes as compared to the base year or
19 prior calendar year for such redevelopment project, rather the
20 incremental increase shall be the amount of total taxes generated
21 from the net new jobs brought in by the national headquarters
22 from another state. In no event shall this subsection be
23 construed to allow a redevelopment project to receive an
24 appropriation in excess of up to fifty percent of the new state
25 revenues.

26 99.848. [Notwithstanding subsection 1 of section 99.847,]
27 Any district providing emergency services pursuant to chapter 190
28 or 321 shall be entitled to reimbursement from the special
29 allocation fund in the amount of at least fifty percent nor more

1 than one hundred percent of the district's tax increment. The
2 ambulance district board or fire protection board shall set the
3 percentage of the district's reimbursement prior to any funds
4 being deposited in the special allocation fund. This section
5 shall not apply to tax increment financing projects or districts
6 approved prior to August 28, 2004."; and

7 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 3

Offered by Dempsy of 23rd

Amend SS/SCS/HCS/House Bill No. 1865, Page 2, Section 67.095, Line 27,

- 2 by inserting after the word "either" the following: "an
- 3 ordinance, or".

Reviewed 5-16-12
adopted 5-16-12

SENATE AMENDMENT NO. 4

Offered by Lemke of 1st

Amend SS/SCS/HCS/House Bill No. 1865, Page 63, Section 253.550, Line 27,

2 by striking the words: "but before the effective date of this
3 act,".

Offered 5-16-12
adopted 5-16-12

