

House Bill 1510 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Jamieson of the 22nd and Moraitakis of the 42nd, Post 4

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 44 of Title 36 of the Official Code of Georgia Annotated, the
2 "Redevelopment Powers Law," so as to change certain provisions regarding the creation of
3 tax allocation districts; to change certain provisions regarding the allocation of certain tax
4 allocation increments; to change certain provisions regarding the use of local general fund
5 moneys with respect to tax allocation bonds; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 44 of Title 36 of the Official Code of Georgia Annotated, the "Redevelopment
10 Powers Law," is amended by striking Code Section 36-44-8, relating to creation of tax
11 allocation districts, and inserting in its place a new Code Section 36-44-8 to read as follows:
12 "36-44-8.

13 In order to create and carry out the purposes of a tax allocation district, the following steps
14 are required:

15 (1) Preparation by the redevelopment agency of a redevelopment plan for the proposed
16 tax allocation district and its submission for consent to the political subdivision or board
17 of education required to consent, if the plan proposes to include in the tax allocation
18 increment ad valorem taxes levied by a political subdivision or board of education
19 required to consent to such inclusion under Code Section 36-44-9, or if the plan proposes
20 to pledge for payment or security for payment of tax allocation bonds and other
21 redevelopment costs the general funds of a county required to consent to such inclusion
22 under Code Section 36-44-9;

23 (2) Submission of the redevelopment plan, ~~along with a certified copy of any resolution~~
24 ~~giving the consent required under paragraph (1) of this Code section,~~ to the local
25 legislative body of the political subdivision whose area of operation will include the tax
26 allocation district; ~~and~~

1 (3) Adoption by the local legislative body of a resolution approving the redevelopment
2 plan and which:

3 (A) Describes the boundaries of the tax allocation district with sufficient definiteness
4 to identify with ordinary and reasonable certainty the territory included. The boundaries
5 shall include only those whole units of property assessed for ad valorem property tax
6 purposes;

7 (B) Creates the district on December 31 following the adoption of the resolution or on
8 December 31 of a subsequent year as determined by the local legislative body;

9 (C) Assigns a name to the district for identification purposes. The first district created
10 shall be known as 'Tax Allocation District Number 1,' followed by the name of the
11 political subdivision within whose area of operation the district is located;

12 (D) Specifies the estimated tax allocation increment base;

13 (E) Specifies property taxes to be used for computing tax allocation increments;

14 (F) Specifies the property proposed to be pledged for payment or security for payment
15 of tax allocation bonds which property may include positive tax allocation increments
16 derived from the tax allocation district, all or part of general funds derived from the tax
17 allocation district, and any other property from which bonds may be paid under Code
18 Section 36-44-14, as determined by the political subdivision subject to the limitations
19 of Code Sections 36-44-9 and 36-44-20; and

20 (G) Contains findings that:

21 ~~(i) The redevelopment area on the whole has not been subject to growth and~~
22 ~~development through private enterprise and would not reasonably be anticipated to~~
23 ~~be developed without the approval of the redevelopment plan or includes one or more~~
24 ~~natural or historical assets which have not been adequately preserved or protected and~~
25 ~~such asset or assets would not reasonably be anticipated to be adequately preserved~~
26 ~~or protected without the approval of the redevelopment plan; and~~

27 (ii) ~~The~~ the improvement of the area is likely to enhance the value of a substantial
28 portion of the other real property in the district.

29 If any information required to be included in the resolution approving the redevelopment
30 plan under subparagraphs (A) through (G) of this paragraph is contained in the
31 redevelopment plan, then the resolution approving the redevelopment plan may
32 incorporate by reference that portion of the redevelopment plan containing said
33 information; and

34 (4) A certified copy of any resolution giving the consent required under paragraph (1)
35 of this Code section must be submitted to the local legislative body of the political
36 subdivision whose area of operation will include the tax allocation district prior to

1 inclusion of such ad valorem taxes or general funds in calculation of the tax allocation
 2 increment."

3 **SECTION 2.**

4 Said chapter is further amended by striking subsection (c) of Code Section 36-44-11, relating
 5 to allocation of certain tax allocation increments, and inserting in its place a new subsection
 6 (c) to read as follows:

7 "(c) All positive tax allocation increments received for a tax allocation district shall be
 8 deposited into a special fund for the district upon receipt by the fiscal officer of the political
 9 subdivision. All general funds derived from the tax allocation district which have been
 10 pledged for payment or security for payment of tax allocation bonds and other
 11 redevelopment costs of the tax allocation district shall be deposited upon receipt into the
 12 special fund. Any lease or other contract payments made under the district's redevelopment
 13 plan shall also be deposited upon receipt into the special fund. Moneys derived from
 14 positive tax allocation increments, general fund moneys, and moneys derived from lease
 15 or other contract payments shall be accounted for separately within the special fund.
 16 Moneys shall be paid out of the fund only to pay redevelopment costs of the district or to
 17 satisfy claims of holders of tax allocation bonds issued for the district. The local legislative
 18 body shall irrevocably pledge all or a part of such special fund to the payment of the tax
 19 allocation bonds. The special fund or designated part thereof may thereafter be used only
 20 for the payment of the tax allocation bonds and interest until they have been fully paid, and
 21 a holder of said bonds shall have a lien against the special fund or said designated part
 22 thereof pledged for payment of said bonds and may either at law or in equity protect and
 23 enforce the lien. General funds derived from the tax allocation district may be used for
 24 payment of tax allocation bonds only to the extent that positive tax allocation increments
 25 and lease or other contract payments in the special fund are insufficient at any time to pay
 26 principal and interest due on such bonds. Subject to any agreement with bondholders,
 27 moneys in the fund may be temporarily invested in the same manner as other funds of the
 28 political subdivision. Except as provided in Code Section 36-44-20, general funds derived
 29 from the tax allocation district may be used for payment of tax allocation bonds only to the
 30 extent that positive tax allocation increments and lease or other contract payments in the
 31 special fund are insufficient at any time to pay the principal and interest due on such bonds.

32 After all redevelopment costs and all tax allocation bonds of the district have been paid or
 33 provided for, subject to any agreement with bondholders, if there remains in the fund any
 34 moneys derived from positive tax allocation increments, they shall be paid over to each
 35 county, municipality, consolidated government, or county or independent board of
 36 education whose ad valorem property taxes were affected by the tax allocation district in

1 the same manner and proportion as the most recent distribution by the county tax collector
2 or tax commissioner, municipal official responsible for collecting municipal ad valorem
3 property taxes, or consolidated government official responsible for collecting consolidated
4 government ad valorem property taxes. If there remains in the fund any other moneys, they
5 shall be paid over to each political subdivision which contributed to the fund in proportion
6 to the respective total contribution each made to the fund."

7 **SECTION 3.**

8 Said chapter is further amended by striking Code Section 36-44-20, relating to use of local
9 general fund moneys with respect to tax allocation bonds, and inserting in its place a new
10 Code Section 36-44-20 to read as follows:

11 "36-44-20.

12 (a) Notwithstanding any other provisions of this chapter, a local legislative body may use,
13 pledge, or otherwise obligate its general funds for payment or security for payment of tax
14 allocation bonds issued or incurred under this chapter but only if those general funds are
15 derived from a designated tax allocation district and used for payment or security for
16 payment of tax allocation bonds issued or incurred under this chapter for redevelopment
17 of that district and only to the extent that positive tax increments or lease or other contract
18 payments in that district's special fund are insufficient at any time to pay principal and
19 interest due on such bonds.

20 (b) The requirement of insufficiency provided for in subsection (a) of this Code section
21 may be satisfied by adoption of a resolution of the local legislative body finding that
22 positive tax increments or lease or other contract payments in the district's special fund will
23 be insufficient to pay principal and interest on bonds to be issued to finance redevelopment
24 costs for the redevelopment described in the redevelopment plan."

25 **SECTION 4.**

26 This Act shall become effective on July 1, 2004; except that subparagraph (3)(G) of Code
27 Section 36-44-8 as amended by Section 1 of this Act shall become effective upon approval
28 of this Act by the Governor or upon its becoming law without such approval.

29 **SECTION 5.**

30 All laws and parts of laws in conflict with this Act are repealed.