

As Introduced

**129th General Assembly
Regular Session
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H. B. No. 536

Representative Gerberry

Cosponsors: Representatives Ashford, Fende, Hagan, R.

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A B I L L

To amend section 5709.73 of the Revised Code to allow 1
a board of township trustees to reduce the 2
percentage or term of a property tax exemption 3
granted to a business under a tax increment 4
financing agreement if the business fails to 5
create the number of new jobs the business agreed 6
to create in the agreement. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5709.73 of the Revised Code be 8
amended to read as follows: 9

Sec. 5709.73. (A) As used in this section and section 5709.74 10
of the Revised Code: 11

(1) "Business day" means a day of the week excluding 12
Saturday, Sunday, and a legal holiday as defined in section 1.14 13
of the Revised Code. 14

(2) "Further improvements" or "improvements" means the 15
increase in the assessed value of real property that would first 16
appear on the tax list and duplicate of real and public utility 17
property after the effective date of a resolution adopted under 18
this section were it not for the exemption granted by that 19

resolution. For purposes of division (B) of this section, 20
"improvements" do not include any property used or to be used for 21
residential purposes. 22

(3) "Housing renovation" means a project carried out for 23
residential purposes. 24

(4) "Incentive district" has the same meaning as in section 25
5709.40 of the Revised Code, except that a blighted area is in the 26
unincorporated area of a township. 27

(5) "Project" and "public infrastructure improvement" have 28
the same meanings as in section 5709.40 of the Revised Code. 29

(B) A board of township trustees may, by unanimous vote, 30
adopt a resolution that declares to be a public purpose any public 31
infrastructure improvements made that are necessary for the 32
development of certain parcels of land located in the 33
unincorporated area of the township. Except with the approval 34
under division (D) of this section of the board of education of 35
each city, local, or exempted village school district within which 36
the improvements are located, the resolution may exempt from real 37
property taxation not more than seventy-five per cent of further 38
improvements to a parcel of land that directly benefits from the 39
public infrastructure improvements, for a period of not more than 40
ten years. The resolution shall specify the percentage of the 41
further improvements to be exempted and the life of the exemption. 42

(C)(1) A board of township trustees may adopt, by unanimous 43
vote, a resolution creating an incentive district and declaring 44
improvements to parcels within the district to be a public purpose 45
and, except as provided in division (F) of this section, exempt 46
from taxation as provided in this section, but no board of 47
township trustees of a township that has a population that exceeds 48
twenty-five thousand, as shown by the most recent federal 49
decennial census, shall adopt a resolution that creates an 50

incentive district if the sum of the taxable value of real 51
property in the proposed district for the preceding tax year and 52
the taxable value of all real property in the township that would 53
have been taxable in the preceding year were it not for the fact 54
that the property was in an existing incentive district and 55
therefore exempt from taxation exceeds twenty-five per cent of the 56
taxable value of real property in the township for the preceding 57
tax year. The district shall be located within the unincorporated 58
area of the township and shall not include any territory that is 59
included within a district created under division (B) of section 60
5709.78 of the Revised Code. The resolution shall delineate the 61
boundary of the district and specifically identify each parcel 62
within the district. A district may not include any parcel that is 63
or has been exempted from taxation under division (B) of this 64
section or that is or has been within another district created 65
under this division. A resolution may create more than one 66
district, and more than one resolution may be adopted under 67
division (C)(1) of this section. 68

(2) Not later than thirty days prior to adopting a resolution 69
under division (C)(1) of this section, if the township intends to 70
apply for exemptions from taxation under section 5709.911 of the 71
Revised Code on behalf of owners of real property located within 72
the proposed incentive district, the board shall conduct a public 73
hearing on the proposed resolution. Not later than thirty days 74
prior to the public hearing, the board shall give notice of the 75
public hearing and the proposed resolution by first class mail to 76
every real property owner whose property is located within the 77
boundaries of the proposed incentive district that is the subject 78
of the proposed resolution. 79

(3)(a) A resolution adopted under division (C)(1) of this 80
section shall specify the life of the incentive district and the 81
percentage of the improvements to be exempted, shall designate the 82

public infrastructure improvements made, to be made, or in the 83
process of being made, that benefit or serve, or, once made, will 84
benefit or serve parcels in the district. The resolution also 85
shall identify one or more specific projects being, or to be, 86
undertaken in the district that place additional demand on the 87
public infrastructure improvements designated in the resolution. 88
The project identified may, but need not be, the project under 89
division (C)(3)(b) of this section that places real property in 90
use for commercial or industrial purposes. 91

A resolution adopted under division (C)(1) of this section on 92
or after March 30, 2006, shall not designate police or fire 93
equipment as public infrastructure improvements, and no service 94
payment provided for in section 5709.74 of the Revised Code and 95
received by the township under the resolution shall be used for 96
police or fire equipment. 97

(b) A resolution adopted under division (C)(1) of this 98
section may authorize the use of service payments provided for in 99
section 5709.74 of the Revised Code for the purpose of housing 100
renovations within the incentive district, provided that the 101
resolution also designates public infrastructure improvements that 102
benefit or serve the district, and that a project within the 103
district places real property in use for commercial or industrial 104
purposes. Service payments may be used to finance or support 105
loans, deferred loans, and grants to persons for the purpose of 106
housing renovations within the district. The resolution shall 107
designate the parcels within the district that are eligible for 108
housing renovations. The resolution shall state separately the 109
amount or the percentages of the expected aggregate service 110
payments that are designated for each public infrastructure 111
improvement and for the purpose of housing renovations. 112

(4) Except with the approval of the board of education of 113
each city, local, or exempted village school district within the 114

territory of which the incentive district is or will be located, 115
and subject to division (E) of this section, the life of an 116
incentive district shall not exceed ten years, and the percentage 117
of improvements to be exempted shall not exceed seventy-five per 118
cent. With approval of the board of education, the life of a 119
district may be not more than thirty years, and the percentage of 120
improvements to be exempted may be not more than one hundred per 121
cent. The approval of a board of education shall be obtained in 122
the manner provided in division (D) of this section. 123

(D) Improvements with respect to a parcel may be exempted 124
from taxation under division (B) of this section, and improvements 125
to parcels within an incentive district may be exempted from 126
taxation under division (C) of this section, for up to ten years 127
or, with the approval of the board of education of the city, 128
local, or exempted village school district within which the parcel 129
or district is located, for up to thirty years. The percentage of 130
the improvements exempted from taxation may, with such approval, 131
exceed seventy-five per cent, but shall not exceed one hundred per 132
cent. Not later than forty-five business days prior to adopting a 133
resolution under this section declaring improvements to be a 134
public purpose that is subject to approval by a board of education 135
under this division, the board of township trustees shall deliver 136
to the board of education a notice stating its intent to adopt a 137
resolution making that declaration. The notice regarding 138
improvements with respect to a parcel under division (B) of this 139
section shall identify the parcels for which improvements are to 140
be exempted from taxation, provide an estimate of the true value 141
in money of the improvements, specify the period for which the 142
improvements would be exempted from taxation and the percentage of 143
the improvements that would be exempted, and indicate the date on 144
which the board of township trustees intends to adopt the 145
resolution. The notice regarding improvements made under division 146
(C) of this section to parcels within an incentive district shall 147

delineate the boundaries of the district, specifically identify 148
each parcel within the district, identify each anticipated 149
improvement in the district, provide an estimate of the true value 150
in money of each such improvement, specify the life of the 151
district and the percentage of improvements that would be 152
exempted, and indicate the date on which the board of township 153
trustees intends to adopt the resolution. The board of education, 154
by resolution adopted by a majority of the board, may approve the 155
exemption for the period or for the exemption percentage specified 156
in the notice; may disapprove the exemption for the number of 157
years in excess of ten, may disapprove the exemption for the 158
percentage of the improvements to be exempted in excess of 159
seventy-five per cent, or both; or may approve the exemption on 160
the condition that the board of township trustees and the board of 161
education negotiate an agreement providing for compensation to the 162
school district equal in value to a percentage of the amount of 163
taxes exempted in the eleventh and subsequent years of the 164
exemption period or, in the case of exemption percentages in 165
excess of seventy-five per cent, compensation equal in value to a 166
percentage of the taxes that would be payable on the portion of 167
the improvements in excess of seventy-five per cent were that 168
portion to be subject to taxation, or other mutually agreeable 169
compensation. 170

The board of education shall certify its resolution to the 171
board of township trustees not later than fourteen days prior to 172
the date the board of township trustees intends to adopt the 173
resolution as indicated in the notice. If the board of education 174
and the board of township trustees negotiate a mutually acceptable 175
compensation agreement, the resolution may declare the 176
improvements a public purpose for the number of years specified in 177
the resolution or, in the case of exemption percentages in excess 178
of seventy-five per cent, for the exemption percentage specified 179
in the resolution. In either case, if the board of education and 180

the board of township trustees fail to negotiate a mutually 181
acceptable compensation agreement, the resolution may declare the 182
improvements a public purpose for not more than ten years, and 183
shall not exempt more than seventy-five per cent of the 184
improvements from taxation. If the board of education fails to 185
certify a resolution to the board of township trustees within the 186
time prescribed by this section, the board of township trustees 187
thereupon may adopt the resolution and may declare the 188
improvements a public purpose for up to thirty years or, in the 189
case of exemption percentages proposed in excess of seventy-five 190
per cent, for the exemption percentage specified in the 191
resolution. The board of township trustees may adopt the 192
resolution at any time after the board of education certifies its 193
resolution approving the exemption to the board of township 194
trustees, or, if the board of education approves the exemption on 195
the condition that a mutually acceptable compensation agreement be 196
negotiated, at any time after the compensation agreement is agreed 197
to by the board of education and the board of township trustees. 198
If a mutually acceptable compensation agreement is negotiated 199
between the board of township trustees and the board of education, 200
including agreements for payments in lieu of taxes under section 201
5709.74 of the Revised Code, the board of township trustees shall 202
compensate the joint vocational school district within which the 203
parcel or district is located at the same rate and under the same 204
terms received by the city, local, or exempted village school 205
district. 206

If a board of education has adopted a resolution waiving its 207
right to approve exemptions from taxation under this section and 208
the resolution remains in effect, approval of such exemptions by 209
the board of education is not required under division (D) of this 210
section. If a board of education has adopted a resolution allowing 211
a board of township trustees to deliver the notice required under 212
division (D) of this section fewer than forty-five business days 213

prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the

improvements would be exempted from taxation, specify the 246
percentage of the improvements that would be exempted from 247
taxation, and indicate the date on which the board of township 248
trustees intends to adopt the resolution. 249

(2) The board of county commissioners, by resolution adopted 250
by a majority of the board, may object to the exemption for the 251
number of years in excess of ten, may object to the exemption for 252
the percentage of the improvement to be exempted in excess of 253
seventy-five per cent, or both. If the board of county 254
commissioners objects, the board may negotiate a mutually 255
acceptable compensation agreement with the board of township 256
trustees. In no case shall the compensation provided to the board 257
of county commissioners exceed the property taxes foregone due to 258
the exemption. If the board of county commissioners objects, and 259
the board of county commissioners and board of township trustees 260
fail to negotiate a mutually acceptable compensation agreement, 261
the resolution adopted under division (C)(1) of this section shall 262
provide to the board of county commissioners compensation in the 263
eleventh and subsequent years of the exemption period equal in 264
value to not more than fifty per cent of the taxes that would be 265
payable to the county or, if the board of county commissioner's 266
objection includes an objection to an exemption percentage in 267
excess of seventy-five per cent, compensation equal in value to 268
not more than fifty per cent of the taxes that would be payable to 269
the county, on the portion of the improvement in excess of 270
seventy-five per cent, were that portion to be subject to 271
taxation. The board of county commissioners shall certify its 272
resolution to the board of township trustees not later than thirty 273
days after receipt of the notice. 274

(3) If the board of county commissioners does not object or 275
fails to certify its resolution objecting to an exemption within 276
thirty days after receipt of the notice, the board of township 277

trustees may adopt its resolution, and no compensation shall be 278
provided to the board of county commissioners. If the board of 279
county commissioners timely certifies its resolution objecting to 280
the trustees' resolution, the board of township trustees may adopt 281
its resolution at any time after a mutually acceptable 282
compensation agreement is agreed to by the board of county 283
commissioners and the board of township trustees, or, if no 284
compensation agreement is negotiated, at any time after the board 285
of township trustees agrees in the proposed resolution to provide 286
compensation to the board of county commissioners of fifty per 287
cent of the taxes that would be payable to the county in the 288
eleventh and subsequent years of the exemption period or on the 289
portion of the improvement in excess of seventy-five per cent, 290
were that portion to be subject to taxation. 291

(F) Service payments in lieu of taxes that are attributable 292
to any amount by which the effective tax rate of either a renewal 293
levy with an increase or a replacement levy exceeds the effective 294
tax rate of the levy renewed or replaced, or that are attributable 295
to an additional levy, for a levy authorized by the voters for any 296
of the following purposes on or after January 1, 2006, and which 297
are provided pursuant to a resolution creating an incentive 298
district under division (C)(1) of this section that is adopted on 299
or after January 1, 2006, shall be distributed to the appropriate 300
taxing authority as required under division (C) of section 5709.74 301
of the Revised Code in an amount equal to the amount of taxes from 302
that additional levy or from the increase in the effective tax 303
rate of such renewal or replacement levy that would have been 304
payable to that taxing authority from the following levies were it 305
not for the exemption authorized under division (C) of this 306
section: 307

(1) A tax levied under division (L) of section 5705.19 or 308
section 5705.191 of the Revised Code for community mental 309

retardation and developmental disabilities programs and services	310
pursuant to Chapter 5126. of the Revised Code;	311
(2) A tax levied under division (Y) of section 5705.19 of the	312
Revised Code for providing or maintaining senior citizens services	313
or facilities;	314
(3) A tax levied under section 5705.22 of the Revised Code	315
for county hospitals;	316
(4) A tax levied by a joint-county district or by a county	317
under section 5705.19, 5705.191, or 5705.221 of the Revised Code	318
for alcohol, drug addiction, and mental health services or	319
families;	320
(5) A tax levied under section 5705.23 of the Revised Code	321
for library purposes;	322
(6) A tax levied under section 5705.24 of the Revised Code	323
for the support of children services and the placement and care of	324
children;	325
(7) A tax levied under division (Z) of section 5705.19 of the	326
Revised Code for the provision and maintenance of zoological park	327
services and facilities under section 307.76 of the Revised Code;	328
(8) A tax levied under section 511.27 or division (H) of	329
section 5705.19 of the Revised Code for the support of township	330
park districts;	331
(9) A tax levied under division (A), (F), or (H) of section	332
5705.19 of the Revised Code for parks and recreational purposes of	333
a joint recreation district organized pursuant to division (B) of	334
section 755.14 of the Revised Code;	335
(10) A tax levied under section 1545.20 or 1545.21 of the	336
Revised Code for park district purposes;	337
(11) A tax levied under section 5705.191 of the Revised Code	338
for the purpose of making appropriations for public assistance;	339

human or social services; public relief; public welfare; public 340
health and hospitalization; and support of general hospitals; 341

(12) A tax levied under section 3709.29 of the Revised Code 342
for a general health district program. 343

(G) An exemption from taxation granted under this section 344
commences with the tax year specified in the resolution so long as 345
the year specified in the resolution commences after the effective 346
date of the resolution. If the resolution specifies a year 347
commencing before the effective date of the resolution or 348
specifies no year whatsoever, the exemption commences with the tax 349
year in which an exempted improvement first appears on the tax 350
list and duplicate of real and public utility property and that 351
commences after the effective date of the resolution. Except as 352
otherwise provided in this division, the exemption ends on the 353
date specified in the resolution as the date the improvement 354
ceases to be a public purpose or the incentive district expires, 355
or ends on the date on which the public infrastructure 356
improvements and housing renovations are paid in full from the 357
township public improvement tax increment equivalent fund 358
established under section 5709.75 of the Revised Code, whichever 359
occurs first. The exemption of an improvement with respect to a 360
parcel or within an incentive district may end on a later date, as 361
specified in the resolution, if the board of township trustees and 362
the board of education of the city, local, or exempted village 363
school district within which the parcel or district is located 364
have entered into a compensation agreement under section 5709.82 365
of the Revised Code with respect to the improvement and the board 366
of education has approved the term of the exemption under division 367
(D) of this section, but in no case shall the improvement be 368
exempted from taxation for more than thirty years. The board of 369
township trustees may, by majority vote, adopt a resolution 370
permitting the township to enter into such agreements as the board 371

finds necessary or appropriate to provide for the construction or 372
undertaking of public infrastructure improvements and housing 373
renovations. Any exemption shall be claimed and allowed in the 374
same or a similar manner as in the case of other real property 375
exemptions. If an exemption status changes during a tax year, the 376
procedure for the apportionment of the taxes for that year is the 377
same as in the case of other changes in tax exemption status 378
during the year. 379

(H) The board of township trustees may issue the notes of the 380
township to finance all costs pertaining to the construction or 381
undertaking of public infrastructure improvements and housing 382
renovations made pursuant to this section. The notes shall be 383
signed by the board and attested by the signature of the township 384
fiscal officer, shall bear interest not to exceed the rate 385
provided in section 9.95 of the Revised Code, and are not subject 386
to Chapter 133. of the Revised Code. The resolution authorizing 387
the issuance of the notes shall pledge the funds of the township 388
public improvement tax increment equivalent fund established 389
pursuant to section 5709.75 of the Revised Code to pay the 390
interest on and principal of the notes. The notes, which may 391
contain a clause permitting prepayment at the option of the board, 392
shall be offered for sale on the open market or given to the 393
vendor or contractor if no sale is made. 394

(I) The township, not later than fifteen days after the 395
adoption of a resolution under this section, shall submit to the 396
director of development a copy of the resolution. On or before the 397
thirty-first day of March of each year, the township shall submit 398
a status report to the director of development. The report shall 399
indicate, in the manner prescribed by the director, the progress 400
of the project during each year that the exemption remains in 401
effect, including a summary of the receipts from service payments 402
in lieu of taxes; expenditures of money from the fund created 403

under section 5709.75 of the Revised Code; a description of the 404
public infrastructure improvements and housing renovations 405
financed with the expenditures; and a quantitative summary of 406
changes in private investment resulting from each project. 407

(J) Nothing in this section shall be construed to prohibit a 408
board of township trustees from declaring to be a public purpose 409
improvements with respect to more than one parcel. 410

(K) A board of township trustees that adopted a resolution 411
under this section prior to July 21, 1994, may amend that 412
resolution to include any additional public infrastructure 413
improvement. A board of township trustees that seeks by the 414
amendment to utilize money from its township public improvement 415
tax increment equivalent fund for land acquisition in aid of 416
industry, commerce, distribution, or research, demolition on 417
private property, or stormwater and flood remediation projects may 418
do so provided that the board currently is a party to a 419
hold-harmless agreement with the board of education of the city, 420
local, or exempted village school district within the territory of 421
which are located the parcels that are subject to an exemption. 422
For the purposes of this division, a "hold-harmless agreement" 423
means an agreement under which the board of township trustees 424
agrees to compensate the school district for one hundred per cent 425
of the tax revenue that the school district would have received 426
from further improvements to parcels designated in the resolution 427
were it not for the exemption granted by the resolution. 428

(L) Before adopting a resolution to exempt improvements to 429
real property under division (B) or (C) of this section, a board 430
of township trustees may enter into an agreement with any person 431
that owns or operates a place of business that is or will be 432
located on the real property that would benefit from such 433
improvements under which the person agrees to hire a specified 434
number of new employees at that place of business as a condition 435

for approval of the exemption. Such an agreement may include a 436
provision that allows the board, after adoption of the resolution 437
that specifies the percentage of the improvements to be exempted 438
and the number of years of the exemption, to adopt one or more 439
subsequent resolutions that reduce the percentage of such 440
improvements to be exempted or the term of the exemption if the 441
person fails to hire the number of new employees specified in the 442
agreement. An agreement that includes such a provision may include 443
additional provisions that detail the circumstances under which 444
the board may act to reduce the percentage of improvements to be 445
exempted or the term of an exemption. 446

Section 2. That existing section 5709.73 of the Revised Code 447
is hereby repealed. 448