

**Senator D. Chris Buttars** proposes the following substitute bill:

**REDEVELOPMENT AGENCY AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: J. Stuart Adams**

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Redevelopment Agencies Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of economic development and expands the type of development that can occur in an economic development project;
- ▶ adds a definition for attached housing;
- ▶ modifies the requirements of economic development project plans; and
- ▶ modifies limitations on the use of tax increment in economic development and education housing development projects.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17B-4-102**, as last amended by Chapter 256, Laws of Utah 2003

**17B-4-403**, as last amended by Chapter 256, Laws of Utah 2003

**17B-4-1005**, as enacted by Chapter 133, Laws of Utah 2001



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **17B-4-102** is amended to read:

**17B-4-102. Definitions.**

(1) "Agency" means a separate body corporate and politic, created under Section 17B-4-201 or previous law, that is a political subdivision of the state, that is created to undertake or promote redevelopment, economic development, or education housing development, or any combination of them, as provided in this chapter, and whose geographic boundaries are coterminous with:

(a) for an agency created by a county, the unincorporated area of the county; and

(b) for an agency created by a city or town, the boundaries of the city or town.

(2) "Assessment property owner" or "assessment owner of property" means the owner of real property as shown on the assessment roll of the county in which the property is located, equalized as of the previous November 1.

(3) "Assessment roll" has the meaning as defined in Section 59-2-102.

(4) "Attached housing" means residential housing of 20 or more units per acre of residential housing.

~~[(4)]~~ (5) "Base taxable value" means the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before:

(a) for a pre-July 1, 1993 project area plan, the effective date of the project area plan;

or

(b) for a post-June 30, 1993 project area plan:

(i) the date of the taxing entity committee's approval of the first project area budget; or

(ii) if no taxing entity committee approval is required for the project area budget, the

later of:

(A) the date the project area plan is adopted by the community legislative body; and

(B) the date the agency adopts the first project area budget.

~~[(5)]~~ (6) "Blight" or "blighted" means the condition of an area that meets the requirements of Subsection 17B-4-604(1).

~~[(6)]~~ (7) "Blight hearing" means a public hearing under Subsection 17B-4-601(3) and

57 Section 17B-4-603 regarding the existence or nonexistence of blight within the proposed  
58 redevelopment project area.

59 ~~[(7)]~~ (8) "Blight study" means a study to determine the existence or nonexistence of  
60 blight within a survey area as provided in Section 17B-4-602.

61 ~~[(8)]~~ (9) "Board" means the governing body of an agency, as provided in Section  
62 17B-4-203.

63 ~~[(9)]~~ (10) "Budget hearing" means the public hearing on a draft project area budget  
64 required under Subsection 17B-4-501(2)(e).

65 ~~[(10)]~~ (11) "Community" means a county, city, or town.

66 ~~[(11)]~~ (12) "Economic development" means to ~~[promote]~~ encourage the expansion of a  
67 community's economic base through:

68 (a) the creation or retention of public or private jobs within the state ~~[through]:~~

69 ~~[(a)]~~ (b) planning, design, development, construction, rehabilitation, business  
70 relocation, or any combination of these, within part or all of a project area; and

71 ~~[(b)]~~ (c) the provision of office, industrial, manufacturing, warehousing, distribution,  
72 parking, attached housing, housing that is included in a building with other uses, retail, hotel,  
73 transit, public, or other facilities[;] or ~~[other]~~ improvements that benefit the state or a  
74 community.

75 ~~[(12)]~~ (13) "Education housing development" means the provision of high density  
76 housing within a project area that is adjacent to a public or private institution of higher  
77 education.

78 ~~[(13)]~~ (14) "Loan fund board" means the Olene Walker Housing Loan Fund Board,  
79 established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

80 ~~[(14)]~~ (15) "Plan hearing" means the public hearing on a draft project area plan  
81 required under Subsection 17B-4-402(1)(e).

82 ~~[(15)]~~ (16) "Post-June 30, 1993 project area plan" means a redevelopment, economic  
83 development, or education housing development project area plan adopted on or after July 1,  
84 1993, whether or not amended subsequent to its adoption.

85 ~~[(16)]~~ (17) "Pre-July 1, 1993 project area plan" means a redevelopment project area  
86 plan adopted before July 1, 1993, whether or not amended subsequent to its adoption.

87 ~~[(17)]~~ (18) "Private," with respect to real property, means:

88 (a) not owned by the United States or any agency of the federal government, a public  
89 entity, or any other governmental entity; and

90 (b) not dedicated to public use.

91 [~~18~~] (19) "Project area" means the geographic area described in a project area plan or  
92 draft project area plan where the redevelopment, economic development, or education housing  
93 development set forth in the project area plan or draft project area plan takes place or is  
94 proposed to take place.

95 [~~19~~] (20) "Project area budget" means a multiyear projection of annual or cumulative  
96 revenues and expenses and other fiscal matters pertaining to a redevelopment, economic  
97 development, or education housing development project area that includes:

98 (a) the base taxable value of property in the project area;

99 (b) the projected tax increment expected to be generated within the project area;

100 (c) the amount of tax increment expected to be shared with other taxing entities;

101 (d) the amount of tax increment expected to be used to implement the project area plan,  
102 including the estimated amount of tax increment to be used for land acquisition, public  
103 improvements, infrastructure improvements, and loans, grants, or other incentives to private  
104 and public entities;

105 (e) the tax increment expected to be used to cover the cost of administering the project  
106 area plan;

107 (f) if the area from which tax increment is to be collected is less than the entire project  
108 area, a legal description of the portion of the project area from which tax increment will be  
109 collected; and

110 (g) for property that the agency owns and expects to sell, the expected total cost of the  
111 property to the agency and the expected selling price.

112 [~~20~~] (21) "Project area plan" means a written plan under Part 4, Project Area Plan,  
113 that, after its effective date, guides and controls the redevelopment, economic development, or  
114 education housing development activities within the project area.

115 [~~21~~] (22) "Property tax" includes privilege tax and each levy on an ad valorem basis  
116 on tangible or intangible personal or real property.

117 [~~22~~] (23) "Public entity" means:

118 (a) the state, including any of its departments or agencies; or

119 (b) a political subdivision of the state, including a county, city, town, school district,  
120 special district, local district, or interlocal cooperation entity.

121 [~~(23)~~] (24) "Public input hearing" means the public hearing required under Subsection  
122 17B-4-402(1)(h)(ii) regarding a proposed redevelopment project.

123 [~~(24)~~] (25) "Record property owner" or "record owner of property" means the owner of  
124 real property as shown on the records of the recorder of the county in which the property is  
125 located and includes a purchaser under a real estate contract if the contract is recorded in the  
126 office of the recorder of the county in which the property is located or the purchaser gives  
127 written notice of the real estate contract to the agency.

128 [~~(25)~~] (26) "Redevelopment" means the development activities under a project area  
129 plan within a redevelopment project area, including:

130 (a) planning, design, development, demolition, clearance, construction, rehabilitation,  
131 or any combination of these, of part or all of a project area;

132 (b) the provision of residential, commercial, industrial, public, or other structures or  
133 spaces, including recreational and other facilities incidental or appurtenant to them;

134 (c) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or  
135 any combination of these, existing structures in a project area;

136 (d) providing open space, including streets and other public grounds and space around  
137 buildings;

138 (e) providing public or private buildings, infrastructure, structures, and improvements;  
139 and

140 (f) providing improvements of public or private recreation areas and other public  
141 grounds.

142 [~~(26)~~] (27) "Superfund site":

143 (a) means an area included in the National Priorities List under the Comprehensive  
144 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

145 (b) includes an area formerly included in the National Priorities List, as described in  
146 Subsection [~~(26)~~] (27)(a), but removed from the list following remediation that leaves on site  
147 the waste that caused the area to be included in the National Priorities List.

148 [~~(27)~~] (28) "Survey area" means an area designated by a survey area resolution for  
149 study to determine whether one or more redevelopment projects within the area are feasible.

150            [~~(28)~~] (29) "Survey area resolution" means a resolution adopted by the agency board  
151 under Subsection 17B-4-401(1)(a) designating a survey area.

152            [~~(29)~~] (30) (a) "Tax increment" means, except as provided in Subsection [~~(29)~~] (30)(b),  
153 the difference between:

154            (i) the amount of property tax revenues generated each tax year by all taxing entities  
155 from the area within a project area designated in the project area plan as the area from which  
156 tax increment is to be collected, using the current assessed value of the property; and

157            (ii) the amount of property tax revenues that would be generated from that same area  
158 using the base taxable value of the property.

159            (b) "Tax increment" does not include taxes levied and collected under Section  
160 59-2-906.1 on or after January 1, 1994 upon the taxable property in the project area unless:

161            (i) the project area plan was adopted before May 4, 1993, whether or not the project  
162 area plan was subsequently amended; and

163            (ii) the taxes were pledged to support bond indebtedness or other contractual  
164 obligations of the agency.

165            [~~(30)~~] (31) "Taxing entity" means a public entity that levies a tax on property within a  
166 project area or proposed project area.

167            [~~(31)~~] (32) "Taxing entity committee" means a committee representing the interests of  
168 taxing entities, created as provided in Section 17B-4-1002.

169            Section 2. Section **17B-4-403** is amended to read:

170            **17B-4-403. Project area plan requirements.**

171            (1) Each project area plan and draft project area plan shall:

172            (a) describe the boundaries of the project area;

173            (b) contain a general statement of the land uses, layout of principal streets, population  
174 densities, and building intensities of the project area and how they will be affected by the  
175 redevelopment, economic development, or education housing development;

176            (c) state the standards that will guide the redevelopment, economic development, or  
177 education housing development;

178            (d) show how the purposes of this chapter will be attained by the redevelopment,  
179 economic development, or education housing development;

180            (e) be consistent with the general plan of the community in which the project area is

181 located and show that the redevelopment, economic development, or education housing  
182 development will conform to the community's general plan;

183 (f) if the agency board made a finding of blight under Subsection 17B-4-601(4)(b):  
184 (i) describe how the redevelopment will reduce or eliminate blight in the project area;  
185 and  
186 (ii) if the agency is to have the power of eminent domain under the project area plan:  
187 (A) provide record owners of property located within the redevelopment project area  
188 and their tenants reasonable opportunities to participate in the redevelopment if the record  
189 property owner or tenant enters into a participation agreement with the agency;  
190 (B) state that the agency has adopted or will adopt guidelines setting forth and  
191 governing the opportunities of record property owners and tenants to participate in the  
192 redevelopment, as required by Subsection 17B-4-402(1)(h)(iv); and  
193 (C) include a plan for the relocation of any families and persons who will be  
194 temporarily or permanently displaced from housing facilities in the redevelopment project area;  
195 (g) if the project area plan is for economic development, describe how the economic  
196 development will expand the community's economic base, create additional jobs and the  
197 number of jobs to be created, or increase the economic opportunities in the community for  
198 current and future residents;

199 (h) if the project area plan is for education housing development, describe how the  
200 education housing development will meet the needs of the community in which the project area  
201 is located;

202 (i) describe any specific project or projects that are the object of the proposed  
203 redevelopment, economic development, or education housing development;

204 (j) identify how private developers, if any, will be selected to undertake the  
205 redevelopment, economic development, or education housing development and identify each  
206 private developer currently involved in the redevelopment, economic development, or  
207 education housing development process;

208 (k) contain a time limit of no more than three years after adoption of the project area  
209 plan for the agency to commence implementation of the project area plan, unless the project  
210 area plan is adopted again as if it were an amended project area plan under Section 17B-4-411;

211 (l) if the project area plan authorizes the use of eminent domain, contain a time limit of

212 no more than five years after the effective date of the project area plan for the agency to  
213 commence acquisition of property through the use of eminent domain;

214 (m) if the project area plan provides for tax increment to be paid to the agency:

215 (i) contain a time limit of no more than 25 years for tax increment to be paid to the  
216 agency from the project area unless the taxing entity committee consents to a longer period;  
217 and

218 (ii) contain a provision that the project area may not exceed 100 acres of private real  
219 property unless:

220 (A) the agency obtains the consent of the taxing entity committee; or

221 (B) the project area is a superfund site;

222 (n) state the reasons for the selection of the project area;

223 (o) describe the physical, social, and economic conditions existing in the project area;

224 (p) provide a financial analysis describing the proposed method of financing the  
225 proposed redevelopment, economic development, or education housing development;

226 (q) describe any tax incentives offered private entities for facilities located in the  
227 project area;

228 (r) contain the report and state any recommendations of the community's planning  
229 commission;

230 (s) include an analysis, as provided in Subsection (2), of whether adoption of the  
231 project area plan is:

232 (i) for a redevelopment project area plan, necessary and appropriate to reduce or  
233 eliminate blight; or

234 (ii) for an economic development or education housing development project area plan,  
235 beneficial under a benefit analysis;

236 (t) if any of the existing buildings or uses in the project area are included in or eligible  
237 for inclusion in the National Register of Historic Places or the State Register, state that the  
238 agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and

239 (u) include other information that the agency determines to be necessary or advisable.

240 (2) Each analysis under Subsection (1)(s)(ii) shall consider:

241 (a) the benefit of any financial assistance or other public subsidy proposed to be  
242 provided by the agency, including:

243 (i) an evaluation of the reasonableness of the costs of economic development or  
 244 education housing development;

245 (ii) efforts the agency has made or will make to maximize private investment;

246 (iii) the rationale for use of tax increment, including an analysis of whether the  
 247 proposed development might reasonably be expected to occur in the foreseeable future solely  
 248 through private investment; and

249 (iv) an estimate of the total amount of tax increment that will be expended in  
 250 undertaking economic development or education housing development and the length of time  
 251 for which it will be expended; and

252 (b) the anticipated public benefit to be derived from the economic development or  
 253 education housing development, including:

254 (i) the beneficial influences upon the tax base of the community; and

255 (ii) the associated business and economic activity likely to be stimulated[~~;~~ ~~and~~].

256 [~~(iii) in the case of economic development, the number of jobs or employment~~  
 257 ~~anticipated to be generated or preserved.]~~

258 Section 3. Section **17B-4-1005** is amended to read:

259 **17B-4-1005. Limitations on tax increment.**

260 (1) (a) [~~ff~~] For a project area plan adopted before July 1, 2004, if the development of  
 261 retail sales of goods is the primary objective of the project area, tax increment may not be paid  
 262 to or used by an agency unless a finding of blight is made under Part 6, Blight Determination in  
 263 Redevelopment Project Areas.

264 (b) (i) Incidental or subordinate development of retail sales of goods does not  
 265 disqualify an agency from receiving tax increment.

266 (ii) Incidental or subordinate development of retail sales of goods includes the  
 267 development of retail sales of goods resulting from the installation and construction of any  
 268 building, facility, structure, or other improvement of a publicly or privately owned convention  
 269 center or sports complex, including parking and infrastructure improvements related to the  
 270 convention center or sports complex.

271 (2) For an economic development or education housing development project area plan  
 272 adopted after June 30, 2004:

273 (a) tax increment may not be used to pay costs associated with private retail

274 development, except for costs associated with public improvements; and

275 (b) costs associated with developing nonretail uses within a mixed-use building that  
276 includes retail are not treated as costs associated with private retail development.

277 [~~2~~] (3) (a) An agency may not be paid any portion of a taxing entity's taxes resulting  
278 from an increase in the taxing entity's tax rate that occurs after the taxing entity committee  
279 approves the project area budget unless, at the time the taxing entity committee approves the  
280 project area budget, the taxing entity committee approves payment of those increased taxes to  
281 the agency.

282 (b) If the taxing entity committee does not approve of payment of the increased taxes to  
283 the agency under Subsection [~~2~~] (3)(a), the county shall distribute to the taxing entity the  
284 taxes attributable to the tax rate increase in the same manner as other property taxes.