

SB0165S01 compared with SB0165

~~text~~ shows text that was in SB0165 but was deleted in SB0165S01.

inserted text shows text that was not in SB0165 but was inserted into SB0165S01.

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Senator Todd Weiler proposes the following substitute bill:

REDEVELOPMENT AGENCY AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to community development and renewal agencies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends language related to a notice of an impending boundary action required when an agency is created;
- ▶ amends language related to a public entity's authority;
- ▶ amends tax increment and sales tax provisions;
- ▶ amends language related to the duties of a taxing entity committee;
- ▶ amends the definition of "local public procurement unit"; and
- ▶ makes technical corrections.

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Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill coordinates with S.B. 153, Procurement Amendments, by providing substantive and technical amendments.

Utah Code Sections Affected:

AMENDS:

17C-1-102, as last amended by Laws of Utah 2011, Chapter 43

17C-1-201, as last amended by Laws of Utah 2009, Chapter 350

17C-1-207, as last amended by Laws of Utah 2010, Chapter 279

17C-1-401, as last amended by Laws of Utah 2011, Chapter 43

17C-1-402, as last amended by Laws of Utah 2011, Chapter 43

17C-2-601, as enacted by Laws of Utah 2007, Chapter 379

63G-6-103, as last amended by Laws of Utah 2011, Chapter 376

Utah Code Sections Affected by Coordination Clause:

63G-6a-104, Utah Code Annotated 1953

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

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

17C-1-102. Definitions.

As used in this title:

(1) "Adjusted tax increment" means:

(a) for tax increment under a pre-July 1, 1993, project area plan, tax increment under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3); and

(b) for tax increment under a post-June 30, 1993, project area plan, tax increment under Section 17C-1-404, excluding tax increment under Section 17C-1-406.

(2) "Affordable housing" means housing to be owned or occupied by persons and families of low or moderate income, as determined by resolution of the agency.

(3) "Agency" or "community development and renewal agency" means a separate body corporate and politic, created under Section 17C-1-201 or as a redevelopment agency under previous law, that is a political subdivision of the state, that is created to undertake or promote

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urban renewal, economic development, or community development, or any combination of them, as provided in this title, 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.

(4) "Annual income" has the meaning as defined under regulations of the U.S.

Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

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

(6) "Base taxable value" means:

(a) unless otherwise designated by the taxing entity committee in accordance with Subsection 17C-1-402(4)(b)(ix), for an urban renewal or economic development project area, 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:

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

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

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

or

(B) if no taxing entity committee approval is required for the project area budget, the later of:

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

(II) the date the agency adopts the first project area budget;

(iii) for a project on an inactive industrial site, a year after the date on which the inactive industrial site is sold for remediation and development; or

(iv) for a project on an inactive airport site, a year after the later of:

(A) the date on which the inactive airport site is sold for remediation and development;

and

(B) the date on which the airport that had been operated on the inactive airport site ceased operations; and

(b) for a community development project area, the agreed value specified in a resolution or interlocal agreement under Subsection 17C-4-201(2).

(7) "Basic levy" means the portion of a school district's tax levy constituting the

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minimum basic levy under Section 59-2-902.

(8) "Blight" or "blighted" means the condition of an area that meets the requirements of Subsection 17C-2-303(1).

(9) "Blight hearing" means a public hearing under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302 regarding the existence or nonexistence of blight within the proposed urban renewal project area.

(10) "Blight study" means a study to determine the existence or nonexistence of blight within a survey area as provided in Section 17C-2-301.

(11) "Board" means the governing body of an agency, as provided in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a draft project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection 17C-3-201(2)(d) for an economic development project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the President of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all urban renewal project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under adopted project area plans and adopted project area budgets at the time that a project area budget for a new urban renewal project area is being considered.

(15) "Community" means a county, city, or town.

(16) "Community development" means development activities within a community, including the encouragement, promotion, or provision of development.

(17) "Contest" means to file a written complaint in the district court of the county in which the person filing the complaint resides.

~~[(17)]~~ (18) "Economic development" means to promote the creation or retention of public or private jobs within the state through:

(a) planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a community; and

(b) the provision of office, industrial, manufacturing, warehousing, distribution,

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parking, public, or other facilities, or other improvements that benefit the state or a community.

~~[(18)]~~ (19) "Fair share ratio" means the ratio derived by:

(a) for a city or town, comparing the percentage of all housing units within the city or town that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

~~[(19)]~~ (20) "Family" has the meaning as defined under regulations of the U.S. Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

~~[(20)]~~ (21) "Greenfield" means land not developed beyond agricultural or forestry use.

~~[(21)]~~ (22) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

~~[(22)]~~ (23) "Housing funds" means the funds allocated in an urban renewal project area budget under Section 17C-2-203 for the purposes provided in Subsection 17C-1-412(1).

~~[(23)]~~ (24) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

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(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection [~~(23)~~] (24)(a).

[~~(24)~~] (25) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection [~~(24)~~] (25)(a).

[~~(25)~~] (26) "Income targeted housing" means housing to be owned or occupied by a family whose annual income is at or below 80% of the median annual income for the county in which the housing is located.

[~~(26)~~] (27) "Incremental value" means a figure derived by multiplying the marginal value of the property located within an urban renewal project area on which tax increment is collected by a number that represents the percentage of adjusted tax increment from that project area that is paid to the agency.

[~~(27)~~] (28) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

[~~(28)~~] (29) "Marginal value" means the difference between actual taxable value and base taxable value.

[~~(29)~~] (30) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

[~~(30)~~] (31) (a) "Municipal building" means a building owned and operated by a municipality for the purpose of providing one or more primary municipal functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Municipal building" does not include a building the primary purpose of which is cultural or recreational in nature.

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~~[(31)]~~ (32) "Plan hearing" means the public hearing on a draft project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, and Subsection 17C-4-102(1)(d) for a community development project area plan.

~~[(32)]~~ (33) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, whether or not amended subsequent to its adoption.

~~[(33)]~~ (34) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to its adoption.

~~[(34)]~~ (35) "Private," with respect to real property, means:

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

(b) not dedicated to public use.

~~[(35)]~~ (36) "Project area" means the geographic area described in a project area plan or draft project area plan where the urban renewal, economic development, or community development, as the case may be, set forth in the project area plan or draft project area plan takes place or is proposed to take place.

~~[(36)]~~ (37) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a urban renewal or economic development project area that includes:

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

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

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

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

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

(f) if the area from which tax increment is to be collected is less than the entire project area:

(i) the tax identification numbers of the parcels from which tax increment will be

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collected; or

(ii) a legal description of the portion of the project area from which tax increment will be collected;

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

(h) (i) for an urban renewal project area, the information required under Subsection 17C-2-201(1)(b); and

(ii) for an economic development project area, the information required under Subsection 17C-3-201(1)(b).

~~[(37)]~~ (38) "Project area plan" means a written plan under Chapter 2, Part 1, Urban Renewal Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or Chapter 4, Part 1, Community Development Project Area Plan, as the case may be, that, after its effective date, guides and controls the urban renewal, economic development, or community development activities within a project area.

~~[(38)]~~ (39) "Property tax" includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

~~[(39)]~~ (40) "Public entity" means:

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

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

~~[(40)]~~ (41) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

~~[(41)]~~ (42) "Record property owner" or "record owner of property" means the owner of real property as shown on the records of the recorder of the county in which the property is located and includes a purchaser under a real estate contract if the contract is recorded in the office of the recorder of the county in which the property is located or the purchaser gives written notice of the real estate contract to the agency.

~~[(42)]~~ (43) "Superfund site":

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

(b) includes an area formerly included in the National Priorities List, as described in Subsection [~~(42)~~] (43)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

[~~(43)~~] (44) "Survey area" means an area designated by a survey area resolution for study to determine whether one or more urban renewal projects within the area are feasible.

[~~(44)~~] (45) "Survey area resolution" means a resolution adopted by the agency board under Subsection 17C-2-101(1)(a) designating a survey area.

[~~(45)~~] (46) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

[~~(46)~~] (47) (a) "Tax increment" means, except as provided in Subsection [~~(46)~~] (47)(b), the difference between:

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

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

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

[~~(47)~~] (48) "Taxing entity" means a public entity that levies a tax on a parcel or parcels of property located within a community.

[~~(48)~~] (49) "Taxing entity committee" means a committee representing the interests of taxing entities, created as provided in Section 17C-1-402.

[~~(49)~~] (50) "Unincorporated" means not within a city or town.

[~~(50)~~] (51) (a) "Urban renewal" means the development activities under a project area plan within an urban renewal project area, including:

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- (i) planning, design, development, demolition, clearance, construction, rehabilitation, environmental remediation, or any combination of these, of part or all of a project area;
- (ii) the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;
- (iii) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;
- (iv) providing open space, including streets and other public grounds and space around buildings;
- (v) providing public or private buildings, infrastructure, structures, and improvements; and
- (vi) providing improvements of public or private recreation areas and other public grounds.

(b) "Urban renewal" means "redevelopment," as defined under the law in effect before May 1, 2006, if the context requires.

Section 2. Section **17C-1-201** is amended to read:

17C-1-201. Creation of agency -- Name change.

(1) A community may, by ordinance adopted by its legislative body, approve the creation of a community development and renewal agency.

(2) (a) The community legislative body shall:

(i) [~~within 10 days~~] after adopting an ordinance under Subsection (1), file with the lieutenant governor[~~(A)~~] a copy of a notice, subject to Subsection (2)(b), of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

[~~(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and~~]

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of creation; and

[~~(C) the original approved final local entity plat; and~~]

[~~(D)~~] (C) a certified copy of the ordinance approving the creation of the community development and renewal agency.

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(b) The notice required under Subsection (2)(a)(i) shall state that the agency's boundaries are, and shall always be, coterminous with the boundaries of the community that created the agency.

~~(b)~~ (c) Upon the lieutenant governor's issuance of the certificate of creation under Section 67-1a-6.5, the agency is created and incorporated.

~~(c)~~ (d) Until the documents listed in Subsection (2)(a)(ii) are recorded in the office of the recorder of the county in which the property is located, an agency may not receive or spend tax increment funds.

(3) (a) An agency may approve a change in its name, whether to indicate it is a community development and renewal agency or otherwise, by:

(i) adopting a resolution approving a name change; and

(ii) filing with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(b) (i) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the agency shall file with the recorder of the county in which the agency is located:

(A) the original notice of an impending name change;

(B) the original certificate of name change; and

(C) a certified copy of the resolution approving a name change.

(ii) Until the documents listed in Subsection (3)(b)(i) are recorded in the office of the county recorder, the agency may not operate under the new name.

Section 3. Section **17C-1-207** is amended to read:

17C-1-207. Public entities may assist with urban renewal, economic development, or community development project.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of urban renewal, economic development, or community development within the area in which it is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

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- (C) any other works which the public entity is otherwise empowered to undertake;
- (ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;
- (iii) in any part of the project area:
 - (A) (I) plan or replan any property within the project area;
 - (II) plat or replat any property within the project area;
 - (III) vacate a plat;
 - (IV) amend a plat; or
 - (V) zone or rezone any property within the project area; and
 - (B) make any legal exceptions from building regulations and ordinances;
 - (iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;
 - (v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;
 - (vi) do any and all things necessary to aid or cooperate in the planning or carrying out of the urban renewal, economic development, or community development;
 - (vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and
 - (viii) lend, grant, or contribute funds to an agency for an urban renewal, economic development, or community development project; and
- (b) 15 days after posting public notice:
 - (i) purchase or otherwise acquire property or lease property from an agency; or
 - (ii) sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to an agency.
- (2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.
- (3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.

Section 4. Section **17C-1-401** is amended to read:

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17C-1-401. Agency receipt and use of tax increment and sales tax -- Distribution of tax increment and sales tax.

(1) An agency may receive and use tax increment and sales tax, as provided in this part.

(2) (a) The applicable length of time or number of years for which an agency is to be paid tax increment or sales tax under this part shall be measured:

(i) for a pre-July 1, 1993, project area plan, from the first tax year regarding which the agency accepts tax increment from the project area;

(ii) for a post-June 30, 1993, urban renewal or economic development project area plan^[7]:

(A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or

(B) with respect to sales tax, as indicated in the ~~resolution or~~ interlocal agreement ~~of a~~ between the agency and the taxing entity that ~~establishes~~ established the agency's right to receive sales tax; or

(iii) for a community development project area plan, as indicated in the resolution or interlocal agreement of a taxing entity that establishes the agency's right to receive tax increment or sales tax.

(b) Unless otherwise provided in a project area budget that is approved by a taxing entity committee, or in an interlocal agreement or resolution adopted by a taxing entity, tax increment may not be paid to an agency for a tax year prior to the tax year following:

(i) for an urban renewal or economic development project area plan, the effective date of the project area plan; and

(ii) for a community development project area plan, the effective date of the interlocal agreement that establishes the agency's right to receive tax increment.

(3) With respect to a community development project area plan:

(a) a taxing entity or public entity may, by resolution or through interlocal agreement, authorize an agency to be paid any or all of that taxing entity or public entity's tax increment or sales tax for any period of time; and

(b) the resolution or interlocal agreement authorizing the agency to be paid tax increment or sales tax shall specify:

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- (i) the base taxable value of the project area; and
- (ii) the method of calculating the amount of tax increment or sales tax to be paid to the agency.

(4) (a) (i) The boundaries of one project area may overlap and include the boundaries of an existing project area.

(ii) If a taxing entity committee is required to approve the project area budget of an overlapping project area described in Subsection (4)(a)(i), the agency shall, before the first meeting of the taxing entity committee at which the project area budget will be considered, inform each taxing entity of the location of the overlapping boundaries.

(b) (i) Before an agency may collect tax increment from the newly created overlapping portion of a project area, the agency shall inform the county auditor regarding the respective amount of tax increment that the agency is authorized to receive from the overlapping portion of each of the project areas.

(ii) The combined amount of tax increment described in Subsection (4)(b)(i) may not exceed 100% of the tax increment generated from a property located within the overlapping boundaries.

(c) Nothing in this Subsection (4) shall give an agency a right to collect or receive tax increment or sales tax that an agency is not otherwise entitled to collect under this title.

(d) The collection of tax increment or sales tax from an overlapping project area described in Subsection (4)(a) does not affect in any way an agency's use of tax increment or sales tax within the other overlapping project area.

~~[(4)]~~ (5) With the written consent of a taxing entity, an agency may be paid tax increment, from that taxing entity's tax revenues only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this title.

~~[(5)]~~ (6) (a) Subject to Section 17C-1-407, an agency is entitled to receive tax increment as authorized by:

- (i) for a pre-July 1, 1993, project area plan, Section 17C-1-403;
- (ii) for a post-June 30, 1993, project area plan:
 - (A) Section 17C-1-404 under a project area budget adopted by the agency in accordance with this title;
 - (B) a project area budget approved by the taxing entity committee and adopted by the

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agency in accordance with this title; or

(C) Section 17C-1-406; or

(iii) a resolution or interlocal agreement entered into under Section 17C-2-207, 17C-3-206, 17C-4-201, or 17C-4-202.

(b) A county that collects property tax on property located within a project area shall pay and distribute any tax increment:

(i) to an agency that the agency is entitled to collect; and

(ii) in accordance with Section 59-2-1365.

Section 5. Section **17C-1-402** is amended to read:

17C-1-402. Taxing entity committee.

(1) Each agency that adopts or proposes to adopt a post-June 30, 1993, urban renewal or economic development project area plan shall, and any other agency may, cause a taxing entity committee to be created.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency was created by a city or town, two representatives appointed by resolution of the legislative body of that city or town;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

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(b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be appointed within 30 days after the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) At its first meeting, a taxing entity committee shall adopt an organizing resolution:

(a) designating a chair and a secretary of the committee; and

(b) if the committee considers it appropriate, governing the use of electronic meetings under Section 52-4-207.

(4) (a) A taxing entity committee represents all taxing entities regarding:

(i) an urban renewal project area; or

(ii) an economic development project area.

(b) A taxing entity committee may:

(i) cast votes that will be binding on all taxing entities;

(ii) negotiate with the agency concerning a draft project area plan;

(iii) approve or disapprove:

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- (A) an urban renewal project area budget as provided in Section 17C-2-204; or
- (B) an economic development project area budget as provided in Section 17C-3-203;
- (iv) approve or disapprove amendments to a project area budget as provided in:
 - (A) Section 17C-2-206 for an urban renewal project area budget; or
 - (B) Section 17C-3-205 for an economic development project area budget;
- (v) approve exceptions to the limits on the value and size of a project area imposed under this title;
 - (vi) approve exceptions to the percentage of tax increment and the period of time that tax increment is paid to the agency as provided in this title;
 - (vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of an urban renewal or economic development project area that the agency and community legislative body determine to be of benefit to the urban renewal or economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);
 - (viii) waive the restrictions imposed by Subsection 17C-2-202(1); [~~and~~]
 - (ix) subject to Subsection (4)(c), designate in an approved urban renewal or economic development project area budget the base taxable value for that project area budget; and
 - [~~(ix)~~] (x) give other taxing entity committee approval or consent required or allowed under this title.

(c) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix) may not be a year that is earlier than the year during which the project area plan became effective.

- (5) A quorum of a taxing entity committee consists of:
 - (a) if the project area is located within a city or town, five members; or
 - (b) if the project area is not located within a city or town, four members.
- (6) Taxing entity committee approval, consent, or other action requires:
 - (a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:
 - (i) at which a quorum is present; and
 - (ii) considering an action relating to a project area budget for, or approval of a finding of blight within, a project area or proposed project area that contains:
 - (A) an inactive industrial site;

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(B) an inactive airport site; or

(C) a closed military base; or

(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.

(7) (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.

(b) Each notice under Subsection (7)(a) shall be accompanied by:

(i) the proposed agenda for the taxing entity committee meeting; and

(ii) if not previously provided and if they exist and are to be considered at the meeting:

(A) the project area plan or proposed plan;

(B) the project area budget or proposed budget;

(C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);

(D) the blight study;

(E) the agency's resolution making a finding of blight under Subsection 17C-2-102(1)(a) (ii)(B); and

(F) other documents to be considered by the taxing entity committee at the meeting.

(c) (i) An agency may not schedule a taxing entity committee meeting to meet on a day on which the Legislature is in session.

(ii) Notwithstanding Subsection (7)(c)(i), the taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

(8) (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.

(b) A second taxing entity committee meeting to consider a project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.

(9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall meet at least annually during the time that the agency receives tax increment under an urban

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renewal or economic development project area budget in order to review the status of the project area.

(b) A taxing entity committee is not required under Subsection (9)(a) to meet if the agency submits on or before November 1 of each year to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment, a report containing the following:

(i) an assessment of growth of incremental values for each active project area, including:

- (A) the base year assessed value;
- (B) the prior year's assessed value;
- (C) the estimated current year assessed value for the project area; and
- (D) a narrative description of the relative growth in assessed value within the project

area;

(ii) a description of the amount of tax increment received by the agency and passed through to other taxing entities from each active project area, including:

- (A) a comparison of the original forecasted amount of tax increment to actual receipts;
- (B) a narrative discussion regarding the use of tax increment; and
- (C) a description of the benefits derived by the taxing entities;

(iii) a description of activity within each active project area, including:

(A) a narrative of any significant development activity, including infrastructure development, site development, and vertical construction within the project area; and

(B) a narrative discussion regarding the status of any agreements for development within the project area;

(iv) a revised multi-year tax increment budget related to each active project area, including:

- (A) the prior year's tax increment receipts;
- (B) the base year value and adjusted base year value, as applicable;
- (C) the applicable tax rates within the project area; and
- (D) a [~~schedule~~] description of private and public investment within the project area;

[and]

(v) an estimate of the tax increment to be paid to the agency for the calendar years

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ending December 31 and beginning the next January 1; and

[~~(v)~~] (vi) any other project highlights included by the agency.

(10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.

(11) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to be paid tax increment or to increase the amount or length of time that an agency may be paid tax increment, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.

(12) (a) The auditor of each county in which the agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each urban renewal and economic development project area:

(i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and

(ii) the assessed value.

(b) With respect to the information required under Subsection (12)(a), the auditor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that the agency expects no longer to be paid tax increment from property within the urban renewal and economic development project area.

(c) The auditor of the county in which the agency is located shall provide a report under this Subsection (12):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee will consider whether to allow the agency to be paid tax increment or to increase the amount of tax increment that the agency may be paid or the length of time that the agency may be paid tax increment.

(13) This section does not apply to a community development project area plan.

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(14) A taxing entity committee resolution, whether adopted before, on, or after May 10, 2011, approving a blight finding, approving a project area budget, or approving an amendment to a project area budget:

(a) is final; and

(b) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.

Section 6. Section **17C-2-601** is amended to read:

17C-2-601. Use of eminent domain in an urban renewal project area --

Conditions -- Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.

(1) Subject to Section 17C-2-602, an agency may use eminent domain to acquire property:

(a) within an urban renewal project area if:

(i) the agency board makes a finding of blight under Part 3, Blight Determination in Urban Renewal Project Areas;

(ii) the urban renewal project area plan provides for the use of eminent domain; and

(iii) the agency commences the acquisition of the property within five years after the effective date of the urban renewal project area plan; or

(b) within a project area established after December 31, 2001 but before April 30, 2007 if:

(i) the agency board made a finding of blight with respect to the project area as provided under the law in effect at the time of the finding;

(ii) the project area plan provides for the use of eminent domain; and

(iii) the agency commences the acquisition of the property before January 1, 2010.

(2) (a) As used in this Subsection (2):

(i) "Commercial property" means a property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner.

~~(i)~~ (ii) "Owner occupied property" means private real property:

(A) whose use is single-family residential or commercial; and

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(B) that is occupied by the owner of the property.

~~(ii)~~ (iii) "Relevant area" means:

(A) except as provided in Subsection (2)(a)~~(ii)~~(iii)(B), the project area; or

(B) the area included within a phase of a project under a project area plan if the phase and the area included within the phase are described in the project area plan.

(b) For purposes of each provision of this Subsection (2) relating to the submission of a petition by the owners of property, a parcel of real property is included in the calculation of the applicable percentage if the petition is signed by:

(i) except as provided in Subsection (2)(b)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel.

(c) An agency may not acquire by eminent domain single-family residential owner occupied property unless:

(i) the owner consents; or

(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the owner occupied property within the relevant area representing at least 70% of the value of owner occupied property within the relevant area; and

(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.

(d) An agency may not acquire commercial property by eminent domain unless:

(i) the owner consents; or

(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and

(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.

(3) An agency may not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless:

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(a) the owner consents; or

(b) (i) the building requires structural alteration, improvement, modernization, or rehabilitation;

(ii) the site or lot on which the building is situated requires modification in size, shape, or use; or

(iii) (A) it is necessary to impose upon the property any of the standards, restrictions, and controls of the project area plan; and

(B) the owner fails or refuses to agree to participate in the project area plan.

(4) (a) Subject to Subsection (4)(b), an agency may acquire by eminent domain property that is already devoted to a public use and located in:

(i) an urban renewal project area; or

(ii) a project area described in Subsection (1)(b).

(b) An agency may not acquire property of a public entity under Subsection (4)(a) without the public entity's consent.

(5) Each agency that acquires property by eminent domain shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.

Section 7. Section **63G-6-103** is amended to read:

63G-6-103. Definitions.

As used in this chapter:

(1) "Architect-engineer services" are those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(3) "Change order" means a written order signed by the procurement officer, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the procurement officer to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

(4) (a) "Construction" means the process of building, renovation, alteration,

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improvement, or repair of any public building or public work.

(b) "Construction" does not mean the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(5) (a) "Construction Manager/General Contractor" means any contractor who enters into a contract for the management of a construction project when that contract allows the contractor to subcontract for additional labor and materials that were not included in the contractor's cost proposal submitted at the time of the procurement of the Construction Manager/General Contractor's services.

(b) "Construction Manager/General Contractor" does not mean a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of construction is to meet subcontracted portions of change orders approved within the scope of the project.

(6) "Contract" means any state agreement for the procurement or disposal of supplies, services, or construction.

(7) "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit, or by a public procurement unit with an external procurement unit.

(8) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(9) (a) "Design-build" means the procurement of architect-engineer services and construction by the use of a single contract with the design-build provider.

(b) This method of design and construction can include the design-build provider supplying the site as part of the contract.

(10) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

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(11) "External procurement unit" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit. An agency of the United States is an external procurement unit.

(12) "Grant" means the furnishing by the state or by any other public or private source assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services, or construction. A contract resulting from the award is not a grant but a procurement contract.

(13) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(14) "Local public procurement unit" means any political subdivision or institution of higher education of the state or public agency of any subdivision, public authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction, but not counties, municipalities, an agency created under Title 17C, Limited Purpose Local Government Entities ~~and~~ Community Development and Renewal Agencies Act, political subdivisions created by counties or municipalities under the Interlocal Cooperation Act, the Utah Housing Corporation, or the Legislature and its staff offices. It includes two or more local public procurement units acting under legislation which authorizes intergovernmental cooperation.

(15) "Person" means any business, individual, union, committee, club, other organization, or group of individuals, not including a state agency or a local public procurement unit.

(16) "Policy board" means the procurement policy board created by Section 63G-6-201.

(17) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(18) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation, and award of a contract, and all phases of contract administration.

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(19) "Procurement officer" means any person or board duly authorized to enter into and administer contracts and make written determinations with respect thereto. It also includes an authorized representative acting within the limits of authority.

(20) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(21) "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

(22) "Purchasing agency" means any state agency other than the Division of Purchasing and General Services that is authorized by this chapter or its implementing regulations, or by delegation from the chief procurement officer, to enter into contracts.

(23) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(24) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.

(25) "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

(26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(27) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.

(28) "Specification" means any description of the physical or functional characteristics, or of the nature of a supply, service, technology, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, technology, or construction item for delivery.

(29) "State agency" or "the state" means any department, division, commission, council, board, bureau, committee, institution, government corporation, or other establishment, official, or employee of this state.

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(30) "State public procurement unit" means the Division of Purchasing and General Services and any other purchasing agency of this state.

(31) "Supplies" means all property, including equipment, materials, and printing.

(32) "Using agency" means any state agency which utilizes any supplies, services, or construction procured under this chapter.

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Legislative Review Note

— as of 2-1-12 7:58 AM

— } Section 8. Coordinating S.B. 165 with S.B. 153 -- Substantive and technical amendments.

If this S.B. 165 and S.B. 153, Procurement Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 63G-6a-104(4) to read:

"(4) "Local public procurement unit" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102;

(c) a local building authority, as defined in Section 17D-2-102;

(d) a conservation district, as described in Title 17D, Chapter 3, Conservation District

Act;

(e) a public corporation, other than the Utah Housing Corporation;

(f) a school district;

(g) a public school, including a local school board or a charter school;

(h) Utah Schools for the Deaf and Blind;

(i) the Utah Education Network;

(j) an institution of higher education of the state;

(k) a county or municipality, and each office or agency of the county or municipality,

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unless the county or municipality adopts its own procurement code by ordinance:

(l) a county or municipality, and each office or agency of the county or municipality, that has adopted this entire chapter by ordinance;

(m) a county or municipality, and each office or agency of the county or municipality, that has adopted a portion of this chapter by ordinance, to the extent that the term is used in the adopted portion of this chapter; or

(n) two or more of the entities described in this Subsection (4), acting under legislation that authorizes intergovernmental cooperation."