

**Senator Jerry W. Stevenson** proposes the following substitute bill:

**MILITARY INSTALLATION DEVELOPMENT AUTHORITY**

**AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: Brad L. Dee

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**LONG TITLE**

**General Description:**

This bill modifies Title 19, Chapter 6, Part 5, Solid Waste Management Act, and Title 63H, Chapter 1, Military Installation Development Authority Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of "solid waste management facility" to include an auxiliary energy facility that is connected to an existing resource recovery facility;
- ▶ repeals Section 19-6-504, which discusses certain requirements for a public entity that issues bonds to finance a solid waste management facility;
- ▶ defines the term "development" to include certain activities within a project area;
- ▶ modifies the definition of "property tax" to not include a privilege tax on a portion of a facility on military land leased back to the military under certain circumstances;
- ▶ describes certain exemptions from the Condominium Ownership Act;
- ▶ modifies the definition of "publicly owned infrastructure and improvements";
- ▶ ~~§~~ → [ ~~repeals the MIDA energy tax;~~ ] ← ~~§~~ and
- ▶ provides that the issuance of a certificate of occupancy by the authority, or an entity designated by the authority, determines when improvements on a parcel within a



26 project area become subject to property tax.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **19-6-502**, as last amended by Laws of Utah 2008, Chapters 89 and 360

34 **63H-1-102**, as last amended by Laws of Utah 2013, Chapter 362

35 **63H-1-202**, as last amended by Laws of Utah 2010, Chapter 9

36 **63H-1-203**, as last amended by Laws of Utah 2013, Chapter 362

37 **63H-1-501**, as last amended by Laws of Utah 2013, Chapter 362

38 **63H-1-502**, as last amended by Laws of Utah 2013, Chapter 362

39 REPEALS:

40 **19-6-504**, as renumbered and amended by Laws of Utah 1991, Chapter 112

41 **§→** [~~**63H-1-204**, as enacted by Laws of Utah 2013, Chapter 362~~] **←§**



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

44 Section 1. Section **19-6-502** is amended to read:

45 **19-6-502. Definitions.**

46 As used in this part:

47 (1) "Governing body" means the governing board, commission, or council of a public  
48 entity.

49 (2) "Jurisdiction" means the area within the incorporated limits of:

50 (a) a municipality;

51 (b) a special service district;

52 (c) a municipal-type service district;

53 (d) a service area; or

54 (e) the territorial area of a county not lying within a municipality.

55 (3) "Long-term agreement" means an agreement or contract having a term of more than  
56 five years but less than 50 years.

150 (b) "Development" includes the demolition, construction, reconstruction, modification,  
 151 expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or  
 152 recreational amenity.

153 [~~5~~] (6) "Development project" means a project to develop land within a project area.

154 [~~6~~] (7) "Elected member" means a member of the authority board who:

155 (a) is a mayor or member of a legislative body appointed under Subsection

156 63H-1-302(2)(b); or

157 (b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

158 (ii) concurrently serves in an elected state, county, or municipal office.

159 [~~7~~] (8) "Included municipality" means a municipality, some or all of which is

160 included within a project area.

161 ~~§~~ → [[]] ~~§~~ → [~~8~~] (9) ~~←~~ ~~§~~ "Military Installation Development Authority energy tax" or  
 161a "MIDA energy tax"

162 means the tax levied under Section 63H-1-204. [[]] ~~←~~ ~~§~~

163 ~~§~~ → [~~9~~] (10) ~~←~~ ~~§~~ "Military land" means land or a facility, including leased land or a leased  
 163a facility,

164 that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the  
 165 jurisdiction of the U.S. Department of Defense or the Utah National Guard.

166 ~~§~~ → [~~10~~] (11) ~~←~~ ~~§~~ "Municipal energy tax" means a municipal energy sales and use tax under  
 166a Title

167 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

168 ~~§~~ → [~~11~~] (12) ~~←~~ ~~§~~ "Municipal services revenue" means revenue that the authority:

169 (a) collects from the authority's:

170 (i) levy of a municipal energy tax;

171 (ii) levy of a MIDA energy tax;

172 (iii) levy of a telecommunications tax;

173 (iv) imposition of a transient room tax; and

174 (v) imposition of a resort communities tax;

175 (b) receives under Subsection 59-12-205(2)(b)(ii); and

176 (c) receives as dedicated tax collections.

177 ~~§~~ → [~~12~~] (13) ~~←~~ ~~§~~ "Municipal tax" means a municipal energy tax, ~~§~~ → [[]] MIDA energy  
 177a tax, [[]] ~~←~~ ~~§~~

178 telecommunications tax, transient room tax, or resort communities tax.

179 ~~§~~ → [~~13~~] (14) ~~←~~ ~~§~~ "Project area" means the land, including military land, whether consisting  
 179a of a

180 single contiguous area or multiple noncontiguous areas, described in a project area plan or draft

181 project area plan, where the development project set forth in the project area plan or draft  
 182 project area plan takes place or is proposed to take place.

183 ~~§~~ → [(14)] (15) ← ~~§~~ "Project area budget" means a multiyear projection of annual or  
 183a cumulative

184 revenues and expenses and other fiscal matters pertaining to a project area that includes:

- 185 (a) the base taxable value of property in the project area;
- 186 (b) the projected tax increment expected to be generated within the project area;
- 187 (c) the amount of the tax increment expected to be shared with other taxing entities;
- 188 (d) the amount of the tax increment expected to be used to implement the project area

189 plan, including the estimated amount of the tax increment to be used for land acquisition,  
 190 public improvements, infrastructure improvements, and loans, grants, or other incentives to  
 191 private and public entities;

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

194 (f) if the tax increment is to be collected at different times or from different portions of  
 195 the project area, or both:

196 (i) (A) the tax identification numbers of the parcels from which the tax increment will  
 197 be collected; or

198 (B) a legal description of the portion of the project area from which the tax increment  
 199 will be collected; and

200 (ii) an estimate of when other portions of the project area will become subject to  
 201 collection of the tax increment; and

202 (g) for property that the authority owns or leases and expects to sell or sublease, the  
 203 expected total cost of the property to the authority and the expected selling price or lease  
 204 payments.

205 ~~§~~ → [(15)] (16) ← ~~§~~ "Project area plan" means a written plan that, after its effective date,  
 205a guides and

206 controls the development within a project area.

207 ~~§~~ → [(16)] (17) ← ~~§~~ (a) "Property tax" includes a privilege tax, except as described in  
 207a Subsection

208 ~~§~~ → [(16)] (17) ← ~~§~~ (b), and each levy on an ad valorem basis on tangible or intangible personal or  
 208a real

209 property.

210 (b) "Property tax" does not include a privilege tax on the taxable value attributable to a  
 211 portion of a facility leased to the military for a calendar year when:

212 (i) a lessee of military land has constructed a facility on the military land that is part of  
 213 a project area;

214 (ii) the lessee leases space in the facility to the military for the entire calendar year; and

215 (iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar  
 216 year, not including any common charges that are reimbursements for actual expenses.

217 ~~§~~ → [(17)] (18) ← ~~§~~ "Public entity" means:

218 (a) the state, including each department or agency of the state; or

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

221 [~~(18) "Publicly owned infrastructure and improvements" means water, sewer, storm~~  
 222 ~~drainage, electrical, telecommunications, and other similar systems and lines, streets, roads,~~  
 223 ~~curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other~~  
 224 ~~buildings, facilities, infrastructure, and improvements that:]~~

225 [~~(a) benefit the public; and]~~

226 [~~(b) are:]~~

227 [~~(i) publicly owned or owned by a utility; or]~~

228 [~~(ii) publicly maintained or operated by the authority or another public entity.]~~

229 ~~§~~ → [(18)] (19) ← ~~§~~ (a) "Publicly owned infrastructure and improvements" means  
 229a infrastructure,

230 improvements, facilities, or buildings that benefit the public and are:

231 (i) publicly owned by the military, the authority, or another public entity;

232 (ii) owned by a utility; or

233 (iii) publicly maintained or operated by the military, the authority, or another public  
 234 entity.

235 (b) "Publicly owned infrastructure and improvements" includes:

236 (i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm  
 237 drainage, natural gas, electricity, or telecommunications; and

238 (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking  
 239 facilities, and public transportation facilities.

240 ~~§~~ → [(19)] (20) ← ~~§~~ "Remaining municipal services revenue" means municipal services  
 240a revenue that

241 the authority has not spent during its fiscal year for municipal services as provided in

242 Subsection [63H-1-503\(1\)](#).

243           ~~§~~→ [(20)] (21) ←~~§~~ "Resort communities tax" means a sales and use tax imposed under  
 243a Section  
 244 59-12-401.

245           ~~§~~→ [(21)] (22) ←~~§~~ "Taxable value" means the value of property as shown on the last  
 245a equalized  
 246 assessment roll as certified by the county assessor.

247           ~~§~~→ [(22)] (23) ←~~§~~ "Tax increment" means the difference between:

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

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

253           ~~§~~→ [(23)] (24) ←~~§~~ "Taxing entity" means a public entity that levies a tax on property within  
 253a a project  
 254 area.

255           ~~§~~→ [(24)] (25) ←~~§~~ "Telecommunications tax" means a telecommunications license tax  
 255a under Title  
 256 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

257           ~~§~~→ [(25)] (26) ←~~§~~ "Transient room tax" means a tax under Section 59-12-352.  
 258 Section 3. Section 63H-1-202 is amended to read:

259           **63H-1-202. Applicability of other law.**

260           (1) The authority or land within a project area is not subject to:

261           (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

262           (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

263           (c) [any] ordinances or regulations of a county or municipality, including those relating  
 264 to land use, health, business license, or franchise; or

265           (d) the jurisdiction of [any] a local district under Title 17B, Limited Purpose Local  
 266 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,  
 267 Special Service District Act.

268           (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,  
 269 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed  
 270 by Title 63E, Independent Entities Code.

271           (3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

272           (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership  
 273 Act:

274 (i) if the military is the owner of land on which a condominium project is constructed,  
275 it is not required to sign, execute, or record a declaration of a condominium project; and

276 (ii) if a condominium unit is owned by the authority and leased to the military for \$1 or  
277 less per calendar year, not including any common charges that are reimbursements for actual  
278 expenses:

279 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,  
280 Condominium Ownership Act; and

281 (B) condominium unit owners within the same building or commercial condominium  
282 project may agree on any method of allocation and payment of common area expenses,  
283 regardless of the size or par value of each unit.

284 Section 4. Section **63H-1-203** is amended to read:

285 **63H-1-203. Levy of a municipal tax -- Direct tax payment to MIDA.**

286 (1) A levy of a municipal energy tax, ~~§~~→ [[] MIDA energy tax, [[] ~~←~~§  
286a telecommunications tax,  
287 transient room tax, or resort communities tax, including an increase in the applicable tax rate,  
288 requires the affirmative vote of:

- 289 (a) the authority board; and
- 290 (b) a majority of all elected members of the authority board.

291 (2) If the authority board levies a municipal energy tax, a consumer who acquires  
292 taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's  
293 energy supplier is not required under federal law to collect the tax in the manner described in  
294 Section [10-1-307](#).

295 Section 5. Section **63H-1-501** is amended to read:

296 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**  
297 **increment.**

- 298 (1) (a) The authority may:
  - 299 (i) subject to Subsection (1)(b), receive up to 75% of the tax increment for up to 25
  - 300 years, as provided in this part; and
  - 301 (ii) use the tax increment during and after the period described in Subsection (1)(a)(i).
- 302 (b) With respect to a parcel located within a project area, the 25-year period described
- 303 in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first tax
- 304 increment from that parcel.

336 infrastructure operated by the authority or improvements operated by the authority to:

337 (a) operate and maintain the infrastructure or improvements; and

338 (b) pay for authority operating expenses, including administrative, overhead, and legal  
339 expenses.

340 (3) For purposes of Subsection (1), the authority may use:

341 (a) tax revenues received under Subsection 59-12-205(2)(b)(ii); ~~§~~ **[and]** ~~←§~~

342 (b) resort communities tax revenues generated from a project area that contains private  
343 land ~~§~~ **[[]]; and [] [e]** ~~←§~~

344 ~~§~~ **[[](c) MIDA energy tax revenue, received under Section 63H-1-204, which does not**  
345 **have to be used in the project area where the revenue was generated. []** ~~←§~~

346 (4) The determination of the authority board under Subsection (1)(e) regarding benefit  
347 to the project area is final.

348 Section 7. **Repealer.**

349 This bill repeals:

350 Section 19-6-504, **Assurance of sufficient revenue to pay bonds.**

351 ~~§~~ **[Section 63H-1-204, MIDA energy tax.]** ~~←§~~