

**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";
- ▶ ~~Ŝ → [repeals the MIDA energy tax;]~~ ←Ŝ 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

**2nd Sub. S.B. 45**



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.

57 (4) "Municipal residential waste" means solid waste that is:  
58 (a) discarded or rejected at a residence within the public entity's jurisdiction; and  
59 (b) collected at or near the residence by:  
60 (i) a public entity; or  
61 (ii) a person with whom the public entity has as an agreement to provide solid waste  
62 management.

63 (5) "Public entity" means:  
64 (a) a county;  
65 (b) a municipality;  
66 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;  
67 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or  
68 (e) a municipal-type service district created under Title 17, Chapter 34,  
69 Municipal-Type Services to Unincorporated Areas.

70 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that  
71 imposes a legal duty on a person.

72 (7) "Residence" means an improvement to real property used or occupied as a primary  
73 or secondary detached single-family dwelling.

74 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of  
75 usable material, energy, fuel, or heat from solid waste and the disposition of it.

76 (9) "Short-term agreement" means a contract or agreement having a term of five years  
77 or less.

78 (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance  
79 discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the  
80 time of discard or rejection, including:

- 81 (i) garbage;
- 82 (ii) refuse;
- 83 (iii) industrial and commercial waste;
- 84 (iv) sludge from an air or water control facility;
- 85 (v) rubbish;
- 86 (vi) ash;
- 87 (vii) contained gaseous material;

- 88 (viii) incinerator residue;
- 89 (ix) demolition and construction debris;
- 90 (x) a discarded automobile; and
- 91 (xi) offal.
- 92 (b) "Solid waste" does not include sewage or another highly diluted water carried
- 93 material or substance and those in gaseous form.
- 94 (11) "Solid waste management" means the purposeful and systematic collection,
- 95 transportation, storage, processing, recovery, or disposal of solid waste.
- 96 (12) "Solid waste management facility" means a facility employed for solid waste
- 97 management, including:
- 98 (a) a transfer station;
- 99 (b) a transport system;
- 100 (c) a baling facility;
- 101 (d) a landfill; and
- 102 (e) a processing system, including:
- 103 (i) a resource recovery facility;
- 104 (ii) a facility for reducing solid waste volume;
- 105 (iii) a plant or facility for compacting, composting, or pyrolyzation of solid waste;
- 106 (iv) an incinerator;
- 107 (v) a solid waste disposal, reduction, or conversion facility; ~~and~~
- 108 (vi) a facility for resource recovery of energy consisting of:
- 109 (A) a facility for the production, transmission, distribution, and sale of heat and steam;
- 110 (B) a facility for the generation and sale of electric energy to a public utility,
- 111 municipality, or other public entity that owns and operates an electric power system on March
- 112 15, 1982; and
- 113 (C) a facility for the generation, sale, and transmission of electric energy on an
- 114 emergency basis only to a military installation of the United States~~[-];~~ and
- 115 (vii) an auxiliary energy facility that is connected to a facility for resource recovery of
- 116 energy as described in Subsection (12)(e)(vi), that:
- 117 (A) is fueled by natural gas, landfill gas, or both;
- 118 (B) consists of a facility for the production, transmission, distribution, and sale of

119 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a  
120 military installation of the United States; and

121 (C) consists of a facility for the generation, transmission, distribution, and sale of  
122 electric energy to a public utility, a municipality described in Subsection (12)(e)(vi)(B), or a  
123 political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

124 Section 2. Section **63H-1-102** is amended to read:

125 **63H-1-102. Definitions.**

126 As used in this chapter:

127 (1) "Authority" means the Military Installation Development Authority, created under  
128 Section [63H-1-201](#).

129 (2) "Base taxable value" means:

130 (a) for military land or other land that was exempt from a property tax at the time that a  
131 project area was created that included the military land or other land, a taxable value of zero; or

132 (b) for private property that is included in a project area, the taxable value of the  
133 property within any portion of the project area, as designated by board resolution, from which  
134 tax increment will be collected, as shown upon the assessment roll last equalized before the  
135 year in which the authority issues a building permit for a building within that portion of the  
136 project area.

137 (3) "Board" means the governing body of the authority created under Section  
138 [63H-1-301](#).

139 (4) (a) "Dedicated tax collections" means the property tax that remains after the  
140 authority is paid the tax increment it is entitled to receive under Subsection [63H-1-501](#)(1), for a  
141 property tax levied by:

142 (i) a county, including a district the county has established under Subsection [17-34-3](#)(2)  
143 to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated  
144 Areas; or

145 (ii) an included municipality.

146 (b) "Dedicated tax collections" does not include a property tax levied by a county to  
147 assess and collect property taxes under Subsections [59-2-1602](#)(1) and (4).

148 (5) (a) "Development" means an activity occurring on land within a project area that is  
149 owned or operated by the military, the authority, another public entity, or a private entity.

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

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

247           ~~Ŝ~~→ [(22)] (23) ←~~Ŝ~~ "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           ~~Ŝ~~→ [(23)] (24) ←~~Ŝ~~ "Taxing entity" means a public entity that levies a tax on property within  
 253a a project  
 254 area.

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

257           ~~Ŝ~~→ [(25)] (26) ←~~Ŝ~~ "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.

305 (2) Improvements on a parcel within a project area become subject to property tax on  
306 January 1 immediately following the day on which the authority or an entity designated by the  
307 authority issues a certificate of occupancy with respect to those improvements.

308 (3) Each county that collects property tax on property within a project area shall pay  
309 and distribute to the authority the tax increment and dedicated tax collections that the authority  
310 is entitled to collect under this title, in the manner and at the time provided in Section  
311 [59-2-1365](#).

312 (4) (a) The board shall determine by resolution when the entire project area or an  
313 individual parcel within a project area is subject to tax increment.

314 (b) The board shall amend the project area budget to reflect whether a parcel within a  
315 project area is subject to tax increment.

316 Section 6. Section **63H-1-502** is amended to read:

317 **63H-1-502. Allowable uses of tax increment and other funds.**

318 (1) Other than municipal services revenue, the authority may use tax increment and  
319 other funds available to the authority:

320 (a) for any purpose authorized under this chapter;

321 (b) for administrative, overhead, legal, and other operating expenses of the authority;

322 (c) to pay for, including financing or refinancing, all or part of the development of land  
323 within the project area from which the tax increment or other funds were collected, including  
324 assisting the ongoing operation of a development or facility within the project area;

325 (d) to pay the cost of the installation and construction of publicly owned infrastructure  
326 and improvements within the project area from which the tax increment funds were collected;

327 (e) to pay the cost of the installation of publicly owned infrastructure and  
328 improvements, including a passenger ropeway, as defined in Section [72-11-102](#), outside the  
329 project area if:

330 (i) the authority board determines by resolution that the infrastructure and  
331 improvements are of benefit to the project area; and

332 (ii) for a passenger ropeway, at least one end of the ropeway is located within the  
333 project area; and

334 (f) to pay the principal and interest on bonds issued by the authority.

335 (2) The authority may use revenue generated from the operation of publicly owned

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);  $\hat{S}$ → [~~and~~] ← $\hat{S}$

342 (b) resort communities tax revenues generated from a project area that contains private  
343 land  $\hat{S}$ → [[]; and [[]]  $\hat{S}$  ← $\hat{S}$

344  $\hat{S}$ → [(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. []] ← $\hat{S}$

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  $\hat{S}$ → [Section 63H-1-204, MIDA energy tax.] ← $\hat{S}$