

Effective 5/10/2016

Part 4
Project Area Funds

17C-1-401.1 Title.

This part is known as "Project Area Funds."

Enacted by Chapter 350, 2016 General Session

17C-1-401.5 Agency receipt and use of project area funds -- Distribution of project area funds.

- (1) An agency may receive and use project area funds in accordance with this title.
- (2)
 - (a) A county that collects property tax on property located within a project area shall, in accordance with Section 59-2-1365, distribute to an agency any tax increment that the agency is authorized to receive.
 - (b) Tax increment distributed to an agency in accordance with Subsection (2)(a) is not revenue of the taxing entity.
- (3)
 - (a) The project area funds collection period 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:
 - (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 and use tax revenue, as indicated in the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive all or a portion of the taxing entity's sales and use tax revenue;
 - (iii) for a community development project area plan, as indicated in the resolution or interlocal agreement of a taxing entity that authorizes the agency to receive the taxing entity's project area funds;
 - (iv) for a community reinvestment project area plan that is subject to a taxing entity committee:
 - (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 and use tax revenue, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive all or a portion of the taxing entity's sales and use tax revenue; or
 - (v) for a community reinvestment project area plan that is subject to an interlocal agreement, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's project area funds.
 - (b) Unless otherwise provided in a project area budget that is approved by a taxing entity committee, or in an interlocal agreement adopted by a taxing entity, tax increment may not be paid to an agency for a tax year before the tax year following:
 - (i) for an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee, the effective date of the project area plan; and

- (ii) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, the effective date of the interlocal agreement that authorizes the agency to receive tax increment.
- (4) With respect to a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement:
 - (a) a taxing entity may, through interlocal agreement, authorize an agency to be paid any or all of the taxing entity's project area funds for any period of time; and
 - (b) the interlocal agreement authorizing the agency to be paid project area funds shall specify:
 - (i) the base taxable value of the project area; and
 - (ii) the method of calculating the amount of project area funds to be paid to the agency.
- (5)
 - (a)
 - (i) The boundaries of one project area may overlap and include the boundaries of another project area.
 - (ii) If a taxing entity committee is required to approve the project area budget of an overlapping project area described in Subsection (5)(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 receive 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 (5)(b)(i) may not exceed 100% of the tax increment generated from a property located within the overlapping boundaries.
 - (c) Nothing in this Subsection (5) gives an agency a right to receive project area funds that the agency is not otherwise authorized to receive under this title.
 - (d) The collection of project area funds from an overlapping project area described in Subsection (5)(a) does not affect an agency's use of project area funds within the other overlapping project area.
- (6) With the written consent of a taxing entity, an agency may be paid tax increment, from the taxing entity's property tax revenue only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this title.
- (7) Subject to Section 17C-1-407, an agency is authorized to receive tax increment as described in:
 - (a) for a pre-July 1, 1993, project area plan, Section 17C-1-403;
 - (b) for a post-June 30, 1993, project area plan:
 - (i) Section 17C-1-404 under a project area budget adopted by the agency in accordance with this title;
 - (ii) a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or
 - (iii) Section 17C-1-406;
 - (c) a resolution or interlocal agreement entered into under Section 17C-2-207, 17C-3-206, 17C-4-201, or 17C-4-202;
 - (d) for a community reinvestment project area plan that is subject to a taxing entity committee, a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or

- (e) for a community reinvestment project area plan that is subject to an interlocal agreement, an interlocal agreement entered into under Section 17C-5-204.

Amended by Chapter 364, 2018 General Session

17C-1-402 Taxing entity committee.

- (1) The provisions of this section apply to a taxing entity committee that is created by an agency for:
 - (a) a post-June 30, 1993, urban renewal project area plan or economic development project area plan;
 - (b) any other project area plan adopted before May 10, 2016, for which the agency created a taxing entity committee; and
 - (c) a community reinvestment project area plan adopted before May 14, 2019, that is subject to a taxing entity committee.
- (2)
 - (a)
 - (i) Each taxing entity committee shall be composed of:
 - (A) two school district representatives appointed in accordance with 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 is created by a municipality, two representatives appointed by resolution of the legislative body of the municipality;
 - (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).
 - (b)
 - (i) Each taxing entity committee representative described in Subsection (2)(a) shall be appointed within 30 days after the day on which 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 board may appoint an individual 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 a taxing entity committee's first meeting, the taxing entity committee shall adopt an organizing resolution that:
 - (a) designates a chair and a secretary of the taxing entity committee; and
 - (b) if the taxing entity committee considers it appropriate, governs 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 plan;
 - (ii) an economic development project area plan; or
 - (iii) a community reinvestment project area plan that is subject to a taxing entity committee.
 - (b) A taxing entity committee may:
 - (i) cast votes that are binding on all taxing entities;
 - (ii) negotiate with the agency concerning a proposed project area plan;
 - (iii) approve or disapprove:
 - (A) an urban renewal project area budget as described in Section 17C-2-204;
 - (B) an economic development project area budget as described in Section 17C-3-203; or
 - (C) for a community reinvestment project area plan that is subject to a taxing entity committee, a community reinvestment project area budget as described in Section 17C-5-302;
 - (iv) approve or disapprove an amendment to a project area budget as described in Section 17C-2-206, 17C-3-205, or 17C-5-306;
 - (v) approve an exception to the limits on the value and size of a project area imposed under this title;
 - (vi) approve:
 - (A) an exception to the percentage of tax increment to be paid to the agency;
 - (B) except for a project area funds collection period that is approved by an interlocal agreement, each project area funds collection period; and
 - (C) an exception to the requirement for an urban renewal project area budget, an economic development project area budget, or a community reinvestment project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;
 - (vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as described in Subsection 17C-1-409(1)(a)(iii)(E);
 - (viii) waive the restrictions described in Subsection 17C-2-202(1);
 - (ix) subject to Subsection (4)(c), designate the base taxable value for a project area budget; and
 - (x) give other taxing entity committee approval or consent required or allowed under this title.

- (c)
 - (i) Except as provided in Subsection (4)(c)(ii), the base year may not be a year that is earlier than five years before the beginning of a project area funds collection period.
 - (ii) The taxing entity committee may approve a base year that is earlier than the year described in Subsection (4)(c)(i).
- (5) A quorum of a taxing entity committee consists of:
 - (a) if the project area is located within a municipality, five members; or
 - (b) if the project area is not located within a municipality, 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 development impediment determination within, a project area or proposed project area that contains:
 - (A) an inactive industrial site;
 - (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 the documents exist and are to be considered at the meeting:
 - (A) the project area plan or proposed project area plan;
 - (B) the project area budget or proposed project area budget;
 - (C) the analysis required under Subsection 17C-2-103(2), 17C-3-103(2), or 17C-5-105(12);
 - (D) the development impediment study;
 - (E) the agency's resolution making a development impediment determination under Subsection 17C-2-102(1)(a)(ii)(B) or 17C-5-402(2)(c)(ii); 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 on a day on which the Legislature is in session.
 - (ii) Notwithstanding Subsection (7)(c)(i), a 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 project area 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 proposed 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) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.

- (10) A taxing entity committee's records shall be:
 - (a) considered the records of the agency that created the taxing entity committee; and
 - (b) maintained by the agency in accordance with Section 17C-1-209.
- (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 receive tax increment, to increase the amount of tax increment the agency receives, or to extend a project area funds collection period, 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 an agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each 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 each project area funds collection period ends.
 - (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 considers whether to allow the agency to receive tax increment, to increase the amount of tax increment that the agency receives, or to extend a project area funds collection period.
- (13) This section does not apply to:
 - (a) a community development project area plan; or
 - (b) a community reinvestment project area plan that is subject to an interlocal agreement.
- (14)
 - (a) A taxing entity committee resolution approving a development impediment determination, approving a project area budget, or approving an amendment to a project area budget:
 - (i) is final; and
 - (ii) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.
 - (b) The provisions of Subsection (14)(a) apply regardless of when the resolution is adopted.

Amended by Chapter 214, 2021 General Session

17C-1-403 Tax increment under a pre-July 1, 1993, project area plan.

- (1) Notwithstanding any other provision of law, this section applies retroactively to tax increment under all pre-July 1, 1993, project area plans, regardless of when the applicable project area was created or the applicable project area plan was adopted.
- (2)
 - (a) Beginning with the first tax year after April 1, 1983, for which an agency accepts tax increment, an agency is authorized to receive:
 - (i)
 - (A) for the first through the fifth tax years, 100% of tax increment;

- (B) for the sixth through the tenth tax years, 80% of tax increment;
- (C) for the eleventh through the fifteenth tax years, 75% of tax increment;
- (D) for the sixteenth through the twentieth tax years, 70% of tax increment; and
- (E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or
- (ii) for an agency that has caused a taxing entity committee to be created under Subsection 17C-1-402(1)(a), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.
- (b) Notwithstanding any other provision of this section:
 - (i) an agency is authorized to receive 100% of tax increment from a project area for 32 years after April 1, 1983, to pay principal and interest on agency indebtedness incurred before April 1, 1983, even though the size of the project area from which tax increment is paid to the agency exceeds 100 acres of privately owned property under a project area plan adopted on or before April 1, 1983; and
 - (ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983, may be refinanced and paid from 100% of tax increment if the principal amount of the debt is not increased in the refinancing.
- (3)
 - (a) For purposes of this Subsection (3):
 - (i) "Additional tax increment" means the difference between 100% of tax increment for a tax year and the amount of tax increment an agency is paid for that tax year under the percentages and time periods specified in Subsection (2)(a).
 - (ii) "Pledged" means a commitment by a board or a community legislative body to pay the costs of bond indebtedness, an interfund loan, a reimbursement, or other contractual obligation of the board or the community legislative body related to a convention center or sports complex described in Subsection (3)(b).
 - (b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a), an agency is authorized to receive additional tax increment for a period ending 32 years after the first tax year after April 1, 1983, for which the agency receives tax increment from the project area if:
 - (i)
 - (A) the additional tax increment is used solely to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements;
 - (B) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before June 30, 2002;
 - (C) the additional tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement; and
 - (D) the board and the community legislative body have determined by resolution that the convention center or sports complex is:
 - (I) within and a benefit to a project area;
 - (II) not within but still a benefit to a project area; or
 - (III) within a project area in which substantially all of the land is publicly owned and a benefit to the community; or
 - (ii)

- (A) the additional tax increment is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area;
 - (B) construction of the recreational or cultural facility is commenced on or before December 31, 2005; and
 - (C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part of the cost of the land for and the installation and construction of the recreational or cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.
- (c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without the school district's consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would have been paid without that subsection.
- (4) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in Subsection (3).

Amended by Chapter 364, 2018 General Session

17C-1-404 Tax increment under a post-June 30, 1993, project area plan.

- (1) This section applies to tax increment under a post-June 30, 1993, project area plan adopted before May 1, 2006, only.
- (2) A board may provide in the project area budget for the agency to be paid:
 - (a) if 20% of the project area budget is allocated for housing under Section 17C-2-203:
 - (i) 100% of annual tax increment for 15 years;
 - (ii) 75% of annual tax increment for 24 years; or
 - (iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time; or
 - (b) if 20% of the project area budget is not allocated for housing under Section 17C-2-203:
 - (i) 100% of annual tax increment for 12 years;
 - (ii) 75% of annual tax increment for 20 years; or
 - (iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time.

Amended by Chapter 350, 2016 General Session

17C-1-405 Tax increment under a project area plan adopted on or after May 1, 2006.

- (1) This section applies to tax increment under a project area plan adopted on or after May 1, 2006, and before May 10, 2016.
- (2) Subject to the approval of the taxing entity committee, a board may provide in the urban renewal or economic development project area budget for the agency to be paid:
 - (a) for an urban renewal project area plan that proposes development of an inactive industrial site or inactive airport site, at least 60% of tax increment for at least 20 years; or
 - (b) for each other project, any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.
- (3) A resolution or interlocal agreement relating to an agency's use of tax increment for a community development project area plan may provide for the agency to be paid any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.

Amended by Chapter 350, 2016 General Session

17C-1-406 Additional tax increment under certain post-June 30, 1993, project area plans.

- (1) This section applies to a post-June 30, 1993, project area plan adopted before May 1, 2006.
- (2) An agency may, without the approval of the taxing entity committee, elect to be paid 100% of annual tax increment for each year beyond the periods specified in Subsection 17C-1-404(2) to a maximum of 25 years, including the years the agency is paid tax increment under Subsection 17C-1-404(2), if:
 - (a) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15:
 - (i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the installation, construction, or reconstruction of:
 - (A) an interchange on I-15, whether or not the interchange is located within a project area; or
 - (B) frontage and other roads connecting to the interchange, as determined by the Department of Transportation created under Section 72-1-201 and the Transportation Commission created under Section 72-1-301, whether or not the frontage or other road is located within a project area; and
 - (ii) the installation, construction, or reconstruction of the interchange or frontage and other roads has begun on or before June 30, 2002; or
 - (b) for an agency in a city of the first or second class:
 - (i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area; and
 - (ii) the installation or construction of the recreational or cultural facility has begun on or before June 30, 2002.
- (3) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection 17C-1-404(2) for any of the uses indicated in this section.
- (4) Notwithstanding Subsection (2), a school district may not, without the school district's consent, receive less tax increment because of application of Subsection (2) than it would have received without that subsection.

Amended by Chapter 350, 2016 General Session

17C-1-407 Limitations on tax increment.

- (1)
 - (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless the agency makes a development impediment determination under Chapter 2, Part 3, Development Impediment Determination in Urban Renewal Project Areas.
 - (b) Except as provided in Section 11-41-103, development of retail sales of goods does not disqualify an agency from receiving tax increment.
 - (c) After July 1, 2005, an agency may not receive or use tax increment generated from the value of property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

- (2)
 - (a) For the purpose of this Subsection (2):
 - (i) "Final tax rate" means the rate used to determine the amount of taxes a taxing entity levies as described in the notice to a taxpayer under Subsection 59-2-1317(2).
 - (ii) "Increased tax revenue" means tax revenue attributable to a tax rate increase.
 - (iii) "Tax rate increase" means the amount calculated by subtracting a taxing entity's certified rate, as defined in Section 59-2-924, from the taxing entity's final tax rate.
 - (b) Except as provided in Subsection (2)(c), for a year in which a taxing entity imposes a final tax rate higher than the certified tax rate, a county shall not pay an agency any portion of a taxing entity's increased tax revenue.
 - (c) Notwithstanding Subsection (2)(b), a county may pay all or a portion of a taxing entity's increased tax revenue to an agency if, at the time of the project area budget approval, the taxing entity committee or each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204 consents to pay the agency the increased tax revenue.
 - (d) If the taxing entity committee or each tax entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204 does not consent to payment of the increased tax revenue to the agency under Subsection (2)(c), the county shall distribute to the taxing entity the increased tax revenue in the same manner as other property tax revenue.
 - (e) Notwithstanding any other provision of this section, if, before tax year 2013, increased tax revenue is paid to an agency without the consent of the taxing entity committee or each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204, and notwithstanding the law at the time that the tax revenue was collected or increased:
 - (i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased tax revenue from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;
 - (ii) the county is not liable to a taxing entity or any other person or entity for the increased tax revenue that was paid to the agency; and
 - (iii) tax increment, including the increased tax revenue, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.
 - (f) An adjustment may not be made to incremental value under Section 59-2-924 for increased tax revenue not paid to an agency under this section.
- (3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:
 - (a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or
 - (b) for more tax years than specified in the project area budget.

Amended by Chapter 307, 2022 General Session

17C-1-408 Base taxable value to be adjusted to reflect other changes.

- (1)
 - (a)
 - (i) As used in this Subsection (1), "qualifying decrease" means:
 - (A) a decrease of more than 20% from the previous tax year's levy; or

- (B) a cumulative decrease over a consecutive five-year period of more than 100% from the levy in effect at the beginning of the five-year period.
- (ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the fifth year of the five-year period.
- (b) If there is a qualifying decrease in the minimum basic school levy under Section 59-2-902 that would result in a reduction of the amount of tax increment to be paid to an agency:
 - (i) the base taxable value shall be reduced in the year of the qualifying decrease to the extent necessary, even if below zero, to provide the agency with approximately the same amount of tax increment that would have been paid to the agency each year had the qualifying decrease not occurred; and
 - (ii) the amount of tax increment paid to the agency each year for the payment of bonds and indebtedness may not be less than what would have been paid to the agency if there had been no qualifying decrease.
- (2)
 - (a) The base taxable value to be used in determining tax increment shall be:
 - (i) increased or decreased by the amount of an increase or decrease that results from:
 - (A) a statute enacted by the Legislature or by the people through an initiative;
 - (B) a judicial decision;
 - (C) an order from the State Tax Commission to a county to adjust or factor the county's assessment rate under Subsection 59-2-704(2);
 - (D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103; or
 - (E) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; and
 - (ii) reduced for any year to the extent necessary, even if below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:
 - (A) in that year there is a decrease in the county's certified tax rate under Subsection 59-2-924.2(2) or (3)(a);
 - (B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and
 - (C) the decrease would result in a reduction of the amount of tax increment to be paid to the agency.
 - (b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax increment paid to an agency each year for payment of bonds or other indebtedness may not be less than would have been paid to the agency each year if there had been no increase or decrease under Subsection (2)(a).

Amended by Chapter 350, 2016 General Session

17C-1-409 Allowable uses of agency funds.

- (1)
 - (a) An agency may use agency funds:
 - (i) for any purpose authorized under this title;
 - (ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;
 - (iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

- (A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;
- (B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;
- (C) an incentive or other consideration paid to a participant under a participation agreement;
- (D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or
- (E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;
- (iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:
 - (A) construction of a public road, bridge, or overpass;
 - (B) relocation of a railroad track within the urban renewal project area; or
 - (C) relocation of a railroad facility within the urban renewal project area;
- (v) subject to Subsection (5), to transfer funds to a community that created the agency; or
- (vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.
- (b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.
- (c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.
- (d)
 - (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:
 - (A) the board approves; and
 - (B) the community legislative body approves.
 - (ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.
 - (iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts.
- (e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:
 - (i) the Department of Transportation; or
 - (ii) a public transit district.
- (f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

- (2)
 - (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.
 - (b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.
- (3)
 - (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.
 - (b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.
- (4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.
- (5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(4).

Amended by Chapter 15, 2023 General Session

Amended by Chapter 471, 2023 General Session

Amended by Chapter 492, 2023 General Session

17C-1-410 Agency may make payments to other taxing entities.

- (1) Subject to Subsection (3), an agency may grant agency funds to a taxing entity to offset some or all of the tax revenue that the taxing entity did not receive because of tax increment paid to the agency.
- (2)
 - (a) Subject to Subsection (3), an agency may use agency funds to pay to a school district an amount of money that the agency determines to be appropriate to alleviate a financial burden or detriment borne by the school district because of the project area development.
 - (b) Each agency that agrees to pay money to a school district under Subsection (2)(a) shall provide a copy of the agreement to the State Board of Education.
- (3)
 - (a) If an agency intends to pay agency funds to one or more taxing entities under Subsection (1) or (2) but does not intend to pay funds to all taxing entities in proportionally equal amounts, the agency shall provide written notice to each taxing entity of the agency's intent.
 - (b)
 - (i) A taxing entity that receives notice under Subsection (3)(a) may elect not to have the taxing entity's tax increment collected and used to pay funds to other taxing entities under this section.
 - (ii) Each election under Subsection (3)(b)(i) shall be:
 - (A) in writing; and

- (B) delivered to the agency within 30 days after the taxing entity's receipt of the notice under Subsection (3)(a).
- (c) If a taxing entity makes an election under Subsection (3)(b), the portion of the taxing entity's tax increment that would have been used by the agency to pay funds under this section to one or more other taxing entities may not be collected by the agency.

Amended by Chapter 350, 2016 General Session

17C-1-411 Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.

- (1) An agency may use project area funds:
 - (a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;
 - (b) outside of a project area for the purpose of:
 - (i) replacing housing units lost by project area development; or
 - (ii) increasing, improving, or preserving the affordable housing supply within the boundary of the agency;
 - (c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area; or
 - (d) subject to Subsection (4), to transfer funds to a community that created the agency.
- (2)
 - (a) Each agency shall create a housing fund and separately account for project area funds allocated under this section.
 - (b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the housing fund, shall accrue to the housing fund.
 - (c) An agency that designates a housing fund under this section shall use the housing fund for the purposes set forth in this section or Section 17C-1-412.
- (3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.
- (4) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(d), 17C-1-409(1)(a)(v), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(4).

Amended by Chapter 471, 2023 General Session

Amended by Chapter 492, 2023 General Session

17C-1-412 Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

- (1)
 - (a) An agency shall use the agency's housing allocation to:
 - (i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

- (ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;
- (iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;
- (iv) plan or otherwise promote income targeted housing within the boundary of the agency;
- (v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;
- (vi) replace housing units lost as a result of the project area development;
- (vii) make payments on or establish a reserve fund for bonds:
 - (A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
 - (B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);
- (viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:
 - (A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
 - (B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);
- (ix) relocate mobile home park residents displaced by project area development;
- (x) subject to Subsection (7), transfer funds to a community that created the agency; or
- (xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:
 - (A) is located in the same county as the agency;
 - (B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and
 - (C) only students of the relevant college or university, including the students' immediate families, occupy.
- (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:
 - (i) the community for use as described in Subsection (1)(a);
 - (ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;
 - (iii) a housing authority established by the county in which the agency is located for providing:
 - (A) income targeted housing within the county;
 - (B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or
 - (C) homeless assistance within the county;
 - (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community;
 - (v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located;

- (vi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if there is an interlocal agreement between the agency and the receiving community; or
 - (vii) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.
- (2)
- (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.
 - (b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.
- (3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.
- (4) An agency may:
- (a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and
 - (b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.
- (5)
- (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.
 - (b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.
- (6)
- (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.
 - (b) In an action under Subsection (6)(a), the court:
 - (i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and
 - (ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.
- (7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(4).
- (8) An agency shall spend, encumber, or allot the money contributed to the housing fund under Subsection (5)(a) within six years from the day on which the agency first receives the money.

Amended by Chapter 413, 2024 General Session

17C-1-413 Base taxable value for new tax.

For purposes of calculating tax increment with respect to a tax that a taxing entity levies for the first time after the effective date of a project area plan, the base taxable value shall be used, subject to any adjustments under Section 17C-1-408.

Amended by Chapter 350, 2016 General Session

17C-1-414 Project area boundaries that divide a tax parcel -- Deletion of parcel from tax increment calculation.

- (1) If the boundaries of a project area, as described in the project area plan, include part of a tax parcel and exclude part of the same tax parcel, the agency shall provide the assessor of the county in which the project area is located a metes and bounds description of the part of the tax parcel included within the project area boundaries.
- (2) If an agency fails to comply with the requirement of Subsection (1), the assessor of the county in which the tax parcel is located may exclude that parcel from the project area for purposes of calculating tax increment to be paid to the agency until the agency complies with the requirement of Subsection (1).

Enacted by Chapter 359, 2006 General Session

17C-1-415 Obligations of agencies that use tax increment to pay for communication infrastructure or facility.

An agency that uses tax increment on or after March 30, 2009 to pay for communication infrastructure or a communication facility:

- (1) may not make or grant any undue or unreasonable preference or advantage to a provider of communication service with respect to the communication infrastructure or communication facility for which the tax increment is used; and
- (2) shall allow the communication infrastructure and facilities for which tax increment is used to be used by any other provider of communication service on a fair, equitable, and nondiscriminatory basis.

Enacted by Chapter 387, 2009 General Session

17C-1-416 Extension of collection period for project areas impacted by COVID-19 emergency -- Requirements -- Limitations.

- (1) For purposes of this section:
 - (a) "COVID-19 emergency" means the same as that term is defined in Section 53-2c-102.
 - (b) "Extension period" means the period of an impacted project area's project area funds collection period that is the result of an extension under this section.
 - (c) "Impacted project area" means a project area:
 - (i) from which an agency expects to receive tax increment;
 - (ii) that is subject to a project area funds collection period;
 - (iii) that is subject to a project area plan that was adopted on or before December 31, 2019; and
 - (iv) in which the agency determines the conditions resulting from the COVID-19 emergency will likely:
 - (A) delay the agency's implementation of the project area plan; or
 - (B) cause the agency to receive an amount of tax increment from the project area that is less than the amount of tax increment the agency expected the agency would receive from the project area.

- (d) "Tax increment" includes additional tax increment as that term is defined in Section 17C-1-403.
- (2)
 - (a) Subject to Subsection (3), an agency may extend the project area funds collection period of an impacted project area for a period not to exceed two years from the day on which the project area funds collection period ends if:
 - (i) the board adopts a resolution on or before December 31, 2021, describing:
 - (A) the conditions resulting from the COVID-19 emergency that the board determines will likely delay the implementation of the project area plan or reduce the amount of tax increment that the agency receives from the impacted project area;
 - (B) why an extension of the project area funds collection period is needed; and
 - (C) the date on which the extension period will end; and
 - (ii) no later than November 1 of the year immediately preceding the year in which the project area funds collection period, not including any extension under this section, ends, the agency mails or electronically submits a copy of the resolution described in Subsection (2)(a)(i) to:
 - (A) the State Tax Commission;
 - (B) the State Board of Education;
 - (C) the state auditor;
 - (D) the auditor of the county in which the impacted project area is located; and
 - (E) each taxing entity affected by the agency's collection of tax increment from the impacted project area.
 - (b) Notwithstanding any other provision of law, an agency is not required to obtain taxing entity or taxing entity committee approval to extend a project area funds collection period under this section.
 - (c) An extension of a project area funds collection period under this section takes effect on the day on which the agency mails or electronically submits a copy of the resolution described in Subsection (2)(a)(i) to each entity specified in Subsection (2)(a)(ii).
- (3)
 - (a) This section does not allow an agency to change:
 - (i) the amount or percentage of tax increment that the agency is authorized to receive from the impacted project area in the final two years of the project area funds collection period; or
 - (ii) the cumulative dollar amount of tax increment that the agency is authorized to receive from the impacted project area, if the agency's receipt of tax increment is limited to a maximum cumulative dollar amount.
 - (b) An agency that extends a project area funds collection period under this section shall use any tax increment received during the extension period in the same manner as provided in:
 - (i) the project area plan; and
 - (ii)
 - (A) the project area budget; or
 - (B) the resolution or interlocal agreement authorizing the agency to receive tax increment from the impacted project area.
 - (c)
 - (i) An extension of a project area funds collection period under this section does not automatically extend the payment of tax increment under a previously approved participation agreement for the extension period, regardless of any contrary term in the participation agreement.

- (ii) An agency that extends a project area funds collection period under this section may only extend the payment of tax increment under a previously approved participation agreement for the extension period by:
 - (A) amending the previously approved participation agreement; or
 - (B) entering into a new participation agreement.
- (d) Nothing in this section limits the right of an agency to extend the agency's collection of tax increment as otherwise provided in this title.

Enacted by Chapter 11, 2020 Special Session 6