

Senator Howard A. Stephenson proposes to substitute the following bill:

REDEVELOPMENT AGENCY TAX INCREMENT CHANGES

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

AN ACT RELATING TO SPECIAL DISTRICTS; MODIFYING THE REQUIREMENTS FOR ADOPTION OF CERTAIN PROJECT AREA BUDGETS AND FOR AMENDMENTS TO CERTAIN PROJECT AREA BUDGETS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-1247.5, as last amended by Chapters 21 and 194, Laws of Utah 1999

17A-2-1264, as enacted by Chapter 279, Laws of Utah 1998

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

Section 1. Section **17A-2-1247.5** is amended to read:

17A-2-1247.5. Tax increment financing -- Project area budget approval -- Payment of additional tax increment.

(1) This section applies to projects for which a preliminary plan has been adopted on or after July 1, 1993.

(2) (a) A taxing agency committee shall be created for each redevelopment or economic development project. The committee membership shall be selected as follows:

(i) two representatives appointed by the school district in the project area;

(ii) two representatives appointed by resolution of the county commission or county council for the county in which the project area is located;

(iii) two representatives appointed by resolution of the city or town's legislative body in which the project area is located if the project is located within a city or town;

(iv) a representative approved by the State School Board; and

26 (v) one representative who shall represent all of the remaining governing bodies of the
27 other local taxing agencies that levy taxes upon the property within the proposed project area. The
28 representative shall be selected by resolution of each of the governing bodies of those taxing
29 agencies within 30 days after the notice provided in Subsection 17A-2-1256(3).

30 (b) If the project is located within a city or town, a quorum of a taxing agency committee
31 consists of five members. If the project is not located within a city or town, a quorum consists of
32 four members.

33 (c) A taxing agency committee formed in accordance with this section has the authority
34 to:

35 (i) represent all taxing entities in a project area and cast votes that will be binding on the
36 governing boards of all taxing entities in a project area;

37 (ii) negotiate with the agency concerning the redevelopment plan;

38 (iii) approve or disapprove project area budgets under Subsection (3); and

39 (iv) approve an exception to the limits on the value and size of project areas imposed by
40 Section 17A-2-1210, or the time and amount of tax increment financing under this section.

41 [~~(3)(a)(i) If the project area budget does not allocate 20% of the tax increment for housing
42 as provided in Subsection 17A-2-1264(2)(a):]~~

43 [~~(A) an~~] (3) (a) (i) An agency may not collect any tax increment for a project area until
44 after the agency obtains the majority consent of a quorum of the taxing agency committee for the
45 project area budget~~[; and]~~ if:

46 [~~(B) a project area budget adopted under Subsection (3)(a)(i)(A) may be amended if the
47 agency obtains the majority consent of a quorum of the taxing agency committee.]~~

48 (A) the project area budget was adopted from July 1, 1993 to June 30, 1998 or after May
49 1, 2000; or

50 (B) the project area budget:

51 (I) was adopted from July 1, 1998 to May 1, 2000; and

52 (II) does not allocate 20% of the tax increment for housing as provided in Subsection
53 17A-2-1264(2)(a).

54 (ii) [~~the~~] For a project area budget adopted from July 1, 1998 to May 1, 2000 that
55 allocates 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a)[:(A)],
56 an agency may not collect tax increment from all or part of a project area until after:

57 ~~[(F)] (A)~~ the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter
58 4, Part 7, Olene Walker Housing Trust Fund, has certified the project area budget as complying
59 with the requirements of Section 17A-2-1264; and

60 ~~[(H)] (B)~~ the agency's governing body has approved and adopted the project area budget
61 by a two-thirds vote~~[, and]~~.

62 ~~[(B) a project area budget adopted under Subsection (3)(a)(ii)(A) may be amended if:]~~

63 ~~[(F) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part~~
64 ~~7, Olene Walker Housing Trust Fund, certifies the amendment as complying with the requirements~~
65 ~~of Section 17A-2-1264; and]~~

66 ~~[(H) the agency's governing body approves and adopts the amendment by a two-thirds~~
67 ~~vote.]~~

68 (iii) For a project area budget adopted after May 1, 2000 that allocates at least 20% of tax
69 increment for housing as provided in Subsection 17A-2-1264(2)(a), the agency shall comply with
70 Subsection 17A-2-1264(2)(b) before the taxing agency committee may give its consent.

71 (b) With the majority consent of a quorum of the taxing agency committee, an agency may
72 amend a project area budget that was adopted under Subsection (3)(a).

73 ~~[(b)] (c) (i)~~ Within 30 days after the approval and adoption of a project area budget, each
74 agency shall file a copy of the budget with the county auditor, the State Tax Commission, the state
75 auditor, and each property taxing entity affected by the agency's collection of tax increment under
76 the project area budget.

77 (ii) Each agency whose project area budget allocates 20% or more of tax increment for
78 housing as provided in Subsection 17A-2-1264(2)(a) shall file a copy of the budget with the Olene
79 Walker Housing Trust Fund established under Title 9, Chapter 4, Part 7, Olene Walker Housing
80 Trust Fund.

81 ~~[(c)] (d) (i)~~ Beginning on January 1, 1997, before ~~[an amendment to]~~ a project area budget
82 ~~or amendment to a project area budget~~ is approved, the agency shall advertise and hold one public
83 hearing on the proposed change in the project area budget.

84 (ii) The public hearing under Subsection (3)~~[(c)](d)~~(i) shall be conducted according to the
85 procedures and requirements of Subsection 17A-2-1222(2), except that if the amended budget
86 allocates a greater proportion of tax increment to a project area than was allocated to the project
87 area under the previous budget, the advertisement shall state the percentage allocated under the

88 previous budget and the percentage allocated under the amended budget.

89 [(d)] (e) If an amendment under Subsection (3)(b) is not approved, the agency shall
90 continue to operate under the previously approved, unamended project area budget.

91 (4) (a) An agency may collect tax increment from all or a part of a project area. The tax
92 increment shall be paid to the agency in the same manner and at the same time as payments of
93 taxes to other taxing agencies to pay the principal of and interest on loans, moneys advanced to,
94 or indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in
95 whole or in part, the redevelopment or economic development project and the housing projects and
96 programs under Sections 17A-2-1263 and 17A-2-1264.

97 (b) (i) An agency may elect to be paid:

98 (A) if 20% of the project area budget is not allocated for housing as provided in Subsection
99 17A-2-1264(2)(a):

100 (I) 100% of annual tax increment for 12 years; or

101 (II) 75% of annual tax increment for 20 years; or

102 (B) if 20% of the project area budget is allocated for housing as provided in Subsection
103 17A-2-1264(2)(a):

104 (I) 100% of annual tax increment for 15 years; or

105 (II) 75% of annual tax increment for 24 years.

106 (ii) Tax increment paid to an agency under this Subsection (4)(b) shall be paid for the
107 applicable length of time beginning the first tax year the agency accepts tax increment from a
108 project area.

109 (c) An agency may receive a greater percentage of tax increment or receive tax increment
110 for a longer period of time than that specified in Subsection (4)(b) if the agency obtains the
111 majority consent of the taxing agency committee.

112 (5) (a) The redevelopment plan shall provide that the portion of the taxes, if any, due to
113 an increase in the tax rate by a taxing agency after the date the project area budget is approved by
114 the taxing agency committee may not be allocated to and when collected paid into a special fund
115 of the redevelopment agency according to the provisions of Subsection (4) unless the taxing
116 agency committee approves the inclusion of the increase in the tax rate at the time the project area
117 budget is approved. If approval of the inclusion of the increase in the tax rate is not obtained, the
118 portion of the taxes attributable to the increase in the rate shall be distributed by the county to the

119 taxing agency imposing the tax rate increase in the same manner as other property taxes.

120 (b) The amount of the tax rate to be used in determining tax increment shall be increased
121 or decreased by the amount of an increase or decrease as a result of:

122 (i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax
123 Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

124 (ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section
125 59-2-103;

126 (iii) an increase or decrease in the percentage of fair market value, as defined under
127 Section 59-2-102; or

128 (iv) a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i).

129 (c) (i) Notwithstanding the increase or decrease resulting from Subsection (5)(b), the
130 amount of money allocated to, and when collected paid to the agency each year for payment of
131 bonds or other indebtedness may not be less than would have been allocated to and when collected
132 paid to the agency each year if there had been no increase or decrease under Subsection (5)(b).

133 (ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year
134 under Subsection 17A-2-1202(2) or 17A-2-1247(2)(a), as the case may be, shall be reduced for any
135 year to the extent necessary, including below zero, to provide an agency with approximately the
136 same amount of money the agency would have received without a reduction in the county's
137 certified tax rate if:

138 (A) in that year there is a decrease in the certified tax rate under Subsection 59-2-924(2)(c)
139 or (2)(d)(i);

140 (B) the amount of the decrease is more than 20% of the county's certified tax rate of the
141 previous year; and

142 (C) the decrease results in a reduction of the amount to be paid to the agency under Section
143 17A-2-1247 or 17A-2-1247.5.

144 (6) (a) For redevelopment plans first adopted before May 4, 1993, beginning January 1,
145 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project
146 under Section 59-2-906.1 which are not pledged to support bond indebtedness and other
147 contractual obligations are exempt from the provisions of Subsection (4).

148 (b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994,
149 all of the taxes levied and collected upon the taxable property in the redevelopment project under

150 Section 59-2-906.1 are exempt from the provisions of Subsection (4).

151 (7) (a) In addition to the amounts and periods that an agency may elect to be paid tax
152 increment under Subsection (4)(b), an agency may elect to be paid 100% of annual tax increment
153 for an additional period, as provided in Subsection (7)(b), beyond those periods provided under
154 Subsection (4)(b), without the approval of the taxing agency committee, if the tax increment
155 funding for the additional period is used:

156 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
157 that would directly benefit from an interchange on I-15, to pay some or all of the cost of the
158 installation, construction, or reconstruction of:

159 (A) an interchange on I-15; or

160 (B) frontage and other roads connecting to the interchange, as determined by the
161 Department of Transportation created under Section 72-1-201 and the Transportation Commission
162 created under Section 72-1-301; or

163 (ii) for an agency in a city of the first class, to pay some or all of the cost of the land for
164 and installation and construction of a recreational facility, as defined in Subsection 59-12-702(3),
165 or a cultural facility, including parking and infrastructure improvements related to the recreational
166 or cultural facility.

167 (b) The additional period for which an agency may be paid 100% of annual tax increment
168 under Subsection (7)(a) is an additional:

169 (i) 13 years, for an agency that initially elected to be paid under Subsection (4)(b)(i)(A)(I);

170 (ii) five years, for an agency that initially elected to be paid under Subsection
171 (4)(b)(i)(A)(II);

172 (iii) ten years, for an agency that initially elected to be paid under Subsection
173 (4)(b)(i)(B)(I); and

174 (iv) one year, for an agency that initially elected to be paid under Subsection
175 (4)(b)(i)(B)(II).

176 (c) This Subsection (7) applies only to an agency established by a city in which:

177 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
178 that would directly benefit from an interchange on I-15, the installation, construction, or
179 reconstruction of an interchange on I-15 or frontage or other roads connecting to the interchange
180 has begun on or before June 30, 2000; and

181 (ii) for an agency in a city of the first class, the installation or construction of a recreational
182 facility, as defined in Subsection 59-12-702(3), or a cultural facility has begun on or before June
183 30, 2000.

184 (d) Notwithstanding any other provision of this Subsection (7), a school district may not
185 receive less tax increment because of application of the other provisions of this Subsection (7) than
186 it would have received without those provisions.

187 Section 2. Section **17A-2-1264** is amended to read:

188 **17A-2-1264. Affordable housing funds under redevelopment plans adopted on or**
189 **after July 1, 1998.**

190 (1) As used in this section:

191 (a) "Affordable housing" has the meaning as defined under Subsection 17A-2-1263(6).

192 (b) "Annual income" has the meaning as defined under regulations of the U.S. Department
193 of Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by
194 replacement regulations.

195 (c) "Board" means the Olene Walker Housing Trust Fund Board, established under Title
196 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund.

197 (d) "Fair share ratio" means the ratio derived by:

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

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

205 (e) "Family" has the meaning as defined under regulations of the U.S. Department of
206 Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by replacement
207 regulations.

208 (f) "Housing funds" means the funds allocated in the project area budget under Subsection
209 (2)(a) for the purposes provided in Subsection (3).

210 (g) "Income targeted housing" means housing to be owned or occupied by a family whose
211 annual income is at or below 80% of the median annual income for the county in which the

212 housing is located.

213 (h) "Unincorporated" means not within a city or town.

214 (2) (a) A project area budget for a redevelopment plan that is adopted on or after July 1,
215 1998, may allocate 20% of the tax increment funds payable to the agency over the life of the
216 redevelopment plan for use as provided in Subsection (3).

217 (b) ~~[Before] (i) Beginning May 1, 2000, before~~ an agency may adopt a project area budget
218 that allocates 20% of tax increment funds under Subsection (2)(a), the ~~[board]~~ agency shall ~~[certify~~
219 ~~the project area budget to be in compliance with the requirements of this section]~~ prepare and
220 adopt a housing plan showing the uses for the housing funds and provide a copy of the plan to the
221 taxing agency committee and board.

222 (ii) If an agency amends a housing plan prepared under Subsection (2)(b)(i), the agency
223 shall provide a copy of the amendment to the taxing agency committee and board.

224 (c) (i) If an agency fails to provide housing funds in accordance with the ~~[certified]~~ project
225 area budget and the housing plan, if applicable, the board may bring legal action to compel the
226 agency to provide the housing funds.

227 (ii) In an action under Subsection (2)(c)(i), the court:

228 (A) shall award the board a reasonable attorney's fee, unless the court finds that the action
229 was frivolous; and

230 (B) may not award the agency its attorney's fees, unless the court finds that the action was
231 frivolous.

232 (3) (a) Each agency shall use all housing funds allocated under Subsection (2)(a) to:

233 (i) pay part or all of the cost of land or construction of income targeted housing within the
234 community that created the agency, if practicable in a mixed income development or area;

235 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the
236 community that created the agency;

237 (iii) pay part or all of the cost of land or installation, construction, or rehabilitation of any
238 building, facility, structure, or other housing improvement, including infrastructure improvements,
239 related to housing located in a redevelopment project area where blight has been found to exist;

240 (iv) replace housing units lost as a result of the redevelopment or economic development;

241 (v) make payments on or establish a reserve fund for bonds:

242 (A) issued by the agency, the community, or the housing authority that provides income

243 targeted housing within the community; and

244 (B) all or part of the proceeds of which are used within the community for the purposes
245 stated in Subsections (3)(a)(i), (ii), (iii), or (iv); or

246 (vi) if the community's fair share ratio at the time of the first adoption of the project area
247 budget is at least 1.1 to 1.0, make payments on bonds:

248 (A) that were previously issued by the agency, the community, or the housing authority
249 that provides income targeted housing within the community; and

250 (B) all or part of the proceeds of which were used within the community for the purposes
251 stated in Subsections (3)(a)(i), (ii), (iii), or (iv).

252 (b) As an alternative to the requirements of Subsection (3)(a), an agency may pay all
253 housing funds to:

254 (i) the community for use as provided under Subsection (3)(a);

255 (ii) the housing authority that provides income targeted housing within the community for
256 use in providing income targeted housing within the community; or

257 (iii) the Olene Walker Housing Trust Fund, established under Title 9, Chapter 4, Part 7,
258 Olene Walker Housing Trust Fund, for use in providing income targeted housing within the
259 community.

260 (4) The agency or community shall hold the housing funds, together with all interest
261 earned by the housing funds and all payments or repayments for loans, advances, or grants from
262 the housing funds, in a separately designated account until the funds are used pursuant to this
263 section.

264 (5) In using housing funds under Subsection (3)(a), an agency may lend, grant, or
265 contribute housing funds to a person, public body, housing authority, private entity or business,
266 or nonprofit organization for use as provided in Subsection (3)(a).

267 (6) An agency may:

268 (a) issue bonds from time to time to finance a housing undertaking under this section,
269 including the payment of principal and interest upon advances for surveys and plans or preliminary
270 loans; and

271 (b) issue refunding bonds for the payment or retirement of bonds under Subsection (6)(a)
272 previously issued by the agency.

273 (7) Expenditures or obligations incurred by an agency under this section shall constitute

274 an indebtedness incurred by the agency.