

**REDEVELOPMENT AGENCY TAX  
INCREMENT FROM SCHOOL DISTRICTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Howard A. Stephenson**

Michael G. Waddoups

**This act modifies Special Districts provisions relating to redevelopment agencies to require school district representatives on the taxing agency committee to report their votes in support of tax increment. This act requires county assessors to report on the value of property within a project area to the taxing agency committee. This act also provides an effective date and contains a coordination clause.**

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

AMENDS:

**17A-2-1247.5**, as last amended by Chapters 178, 348 and 349, Laws of Utah 2000

*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) (i) A taxing agency committee shall be created for each redevelopment, education housing development, or economic development project. The committee membership shall be selected as follows:

(A) unless a school district board votes not to appoint representatives under Subsection (2)(a)(ii)(A), two representatives appointed by the school district in the project area;

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

(C) 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;

(D) unless a school district board votes not to appoint representatives under Subsection (2)(a)(ii)(A), a representative approved by the State School Board; and

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

(ii) (A) A school district that levies a tax on property located within a project area may choose not to appoint representatives to the taxing agency committee under Subsection (2)(a)(i)(A) if:

(I) the project area is established under an education housing development project; and

(II) the project area budget of the project area under Subsection (2)(a)(ii)(A)(I) is adopted on or after May 1, 2000.

(B) If a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), the State School Board may not appoint a representative to the taxing agency committee.

(b) (i) If the project is located within a city or town, a quorum of a taxing agency committee consists of:

(A) if a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), three members; or

(B) in all other cases, five members.

(ii) If the project is not located within a city or town, a quorum consists of:

(A) if a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), two members; or

(B) in all other cases, four members.

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

(i) (A) represent all taxing entities in a project area, except a school district whose board has voted under Subsection (2)(a)(ii)(A) not to appoint representatives to the taxing agency committee; and

(B) cast votes that will be binding on the governing boards of all taxing entities in a project area that the taxing agency committee represents under Subsection (2)(c)(i)(A);

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

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

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

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

(e) (i) The assessor of each county in which the agency is located shall provide a written report to the taxing agency committee stating, with respect to property within each project area:

(A) the taxable value for the base year, reflecting any adjustments under Sections 17A-2-1250.5, 17A-2-1251, 17A-2-1252, and 17A-2-1253; and

(B) the assessed value.

(ii) With respect to the information required under Subsection (2)(e)(i), the county assessor shall provide:

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

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

(iii) The assessor of the county in which the agency is located shall provide a report under this Subsection (3)(e):

(A) at least annually; and

(B) upon request of the taxing agency committee, before a taxing agency committee meeting at which the committee will consider whether to allow the agency to be paid tax increment or to

increase the amount or length of time that the agency may be paid tax increment.

(3) (a) (i) An agency may not collect any tax increment for a project area until after the agency obtains the majority consent of a quorum of the taxing agency committee for the project area budget if:

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

(B) the project area budget:

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

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

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

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

(B) the agency's governing body has approved and adopted the project area budget by a two-thirds vote.

(iii) (A) (I) Except as provided in Subsection (3)(a)(iii)(A)(II), each project area budget adopted after May 1, 2000 that provides for more than \$100,000 of annual tax increment to be collected by the agency shall allocate at least 20% of tax increment for housing as provided in Subsection 17A-2-1264(3)(a).

(II) The 20% requirement of Subsection (3)(a)(iii)(A)(I) may be waived in whole or in part by the mutual consent of the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund, and the taxing agency committee upon their determination that 20% of tax increment is more than is needed to address the community's need for affordable housing, as defined in Section 17A-2-1264.

(B) Before the taxing agency committee may give its consent to a project area budget

adopted after May 1, 2000 that is required under Subsection (3)(a)(iii) to allocate tax increment for housing, the agency shall comply with Subsection 17A-2-1264(2)(b).

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

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

(ii) Each agency whose project area budget allocates tax increment for housing as provided in Subsection 17A-2-1264(3)(a) shall file a copy of the budget with the Olene Walker Housing Trust Fund established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund.

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

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

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

(4) (a) Except as provided in Subsections (6) and (8), an agency may collect tax increment from all or a part of a project area. The tax increment shall be paid to the agency in the same manner and at the same time as payments of taxes to other taxing agencies to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in whole or in part, the redevelopment, education housing development, or economic development project and the housing projects and programs under Sections 17A-2-1263 and 17A-2-1264.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section

59-2-103;

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

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

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

(ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year under Subsection 17A-2-1202(2) or 17A-2-1247(2)(a), as the case may be, shall be reduced for any year to the extent necessary, including 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 certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i);

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

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

(b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project under Section 59-2-906.1 are exempt from the provisions of Subsection (4).

(7) (a) In addition to the amounts and periods that an agency may elect to be paid tax increment under Subsection (4)(b), an agency may elect to be paid 100% of annual tax increment for

an additional period, as provided in Subsection (7)(b), beyond those periods provided under Subsection (4)(b), without the approval of the taxing agency committee, if the tax increment funding for the additional period is used:

(i) 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, to pay some or all of the cost of the installation, construction, or reconstruction of:

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

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

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

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

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

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

and

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

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

(i) 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, the installation, construction, or reconstruction of an interchange on I-15 or frontage or other roads connecting to the interchange has begun on or before June 30, 2002; and

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

2002.

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

(8) If a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), all of the taxes levied and collected upon taxable property in the redevelopment project by the school district are exempt from Subsection (4) and the agency may not collect tax increment from taxes levied by the school district in the project area.

**Section 2. Effective date.**

This act takes effect on June 1, 2001.

**Section 3. Coordination clause.**

If this bill and 1st Substitute H.B. 7, Recodification and Amendments of Redevelopment Agencies Statutes, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, add the following as Subsections (7) and (8) in Section 17B-4-1002 as enacted in 1st Substitute H.B. 7:

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

(8) (a) The assessor of each county in which the agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each project area:

- (i) the base taxable value, as adjusted by any adjustments under Section 17B-4-1006; and
- (ii) the assessed value.

(b) With respect to the information required under Subsection (8)(a), the agency shall provide:

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

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

(c) The assessor of the county in which the agency is located shall provide a report under this Subsection (8):

(i) at least annually; and

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