

**LIMITING 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 allow school district boards to choose not to appoint members to the taxing agency committee and thus not to have the school district portion of tax increment go to the redevelopment agency for redevelopment and economic development projects. This act also makes technical changes.

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]~~ legislative body of the county in which the project area is located;

28 (C) two representatives appointed by resolution of the [~~city or town's~~] legislative body of
29 the city or town in which the project area is located if the project is located within a city or town;

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

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

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

39 (I) the project area is established under an education housing development project[;] and
40 [~~(H)~~] the project area budget of [~~the~~] that project area [~~under Subsection (2)(a)(ii)(A)(I)~~] is adopted
41 on or after May 1, 2000[;]; or

42 (II) the project area is established under a redevelopment or economic development project
43 and the project area budget of that project area is adopted on or after April 30, 2001.

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

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

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

51 (B) in all other cases, five members.

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

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

55 (B) in all other cases, four members.

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

58 (i) (A) represent all taxing entities in a project area, except a school district whose board

59 has voted under Subsection (2)(a)(ii)(A) not to appoint representatives to the taxing agency
60 committee; and

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

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

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

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

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

70 (A) the project area budget was adopted from July 1, 1993 to June 30, 1998 or after May
71 1, 2000; or

72 (B) the project area budget:

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

74 (II) does not allocate 20% of the tax increment for housing as provided in Subsection
75 17A-2-1264(2)(a).

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

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

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

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

88 (II) The 20% requirement of Subsection (3)(a)(iii)(A)(I) may be waived in whole or in part
89 by the mutual consent of the Olene Walker Housing Trust Fund Board, established under Title 9,

90 Chapter 4, Part 7, Olene Walker Housing Trust Fund, and the taxing agency committee upon their
91 determination that 20% of tax increment is more than is needed to address the community's need
92 for affordable housing, as defined in Section 17A-2-1264.

93 (B) Before the taxing agency committee may give its consent to a project area budget
94 adopted after May 1, 2000 that is required under Subsection (3)(a)(iii) to allocate tax increment
95 for housing, the agency shall comply with Subsection 17A-2-1264(2)(b).

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

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

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

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

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

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

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

121 Sections 17A-2-1263 and 17A-2-1264.

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

123 (A) if 20% of the project area budget is not allocated for housing as provided in Subsection
124 17A-2-1264(2)(a):

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

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

127 (B) if 20% of the project area budget is allocated for housing as provided in Subsection
128 17A-2-1264(2)(a):

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

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

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

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

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

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

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

149 (ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section
150 59-2-103;

151 (iii) an increase or decrease in the percentage of fair market value, as defined under

152 Section 59-2-102; or

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

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

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

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

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

167 (C) the decrease results in a reduction of the amount to be paid to the agency under Section
168 17A-2-1247 or 17A-2-1247.5.

169 (6) (a) For redevelopment plans first adopted before May 4, 1993, beginning January 1,
170 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project
171 under Section 59-2-906.1 which are not pledged to support bond indebtedness and other
172 contractual obligations are exempt from the provisions of Subsection (4).

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

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

181 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
182 that would directly benefit from an interchange on I-15, to pay some or all of the cost of the

183 installation, construction, or reconstruction of:

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

185 (B) frontage and other roads connecting to the interchange, as determined by the

186 Department of Transportation created under Section 72-1-201 and the Transportation Commission

187 created under Section 72-1-301; or

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

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

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

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

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

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

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

202 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
203 that would directly benefit from an interchange on I-15, the installation, construction, or
204 reconstruction of an interchange on I-15 or frontage or other roads connecting to the interchange
205 has begun on or before June 30, 2002; and

206 (ii) for an agency in a city of the first class, the installation or construction of a recreational
207 facility, as defined in Subsection 59-12-702(3), or a cultural facility has begun on or before June
208 30, 2002.

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

212 (8) If a school district board votes not to appoint representatives to the taxing agency
213 committee under Subsection (2)(a)(ii)(A), all of the taxes levied and collected upon taxable

214 property in the redevelopment project by the school district are exempt from Subsection (4) and
215 the agency may not collect tax increment from taxes levied by the school district in the project
216 area.

Legislative Review Note
as of 1-11-01 1:11 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel