

**REVISIONS TO REDEVELOPMENT AGENCY**

**LAWS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Wayne A. Harper**

**This act modifies the Redevelopment Agencies Act by making minor changes and technical corrections throughout the act. The act resolves internal inconsistencies and makes related changes within the redevelopment agencies code relating to plan hearings, survey areas, owner participation, relocation plan requirements, time limits for use of tax increment, benefit analysis, and publication requirements. The act amends the requirements for blight findings when expanding a redevelopment project.**

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

AMENDS:

**17B-4-102**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-201**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-302**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-402**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-403**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-406**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-407**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-411**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-603**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-702**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-703**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-705**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-802**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-1001**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-1002**, as enacted by Chapters 103 and 133, Laws of Utah 2001

**17B-4-1004**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-1007**, as enacted by Chapter 133, Laws of Utah 2001

**17B-4-1010**, as enacted by Chapter 133, Laws of Utah 2001

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

Section 1. Section **17B-4-102** is amended to read:

**17B-4-102. Definitions.**

(1) "Agency" means a separate body corporate and politic, created under Section 17B-4-201 or previous law, that is a political subdivision of the state, that is created to undertake or promote redevelopment, economic development, or education housing development, or any combination of them, as provided in this chapter, and whose geographic boundaries are coterminous with:

- (a) for an agency created by a county, the unincorporated area of the county; and
- (b) for an agency created by a city or town, the boundaries of the city or town.

(2) "Assessment property owner" or "assessment owner of property" means the owner of real property as shown on the assessment roll of the county in which the property is located, equalized as of the previous November 1.

(3) "Assessment roll" has the meaning as defined in Section 59-2-102.

(4) "Base taxable value" means the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before:

- (a) for a pre-July 1, 1993 project area plan, the effective date of the project area plan; or
- (b) for a post-June 30, 1993 project area plan:

- (i) the date of the taxing entity committee's approval of the first project area budget; or
- (ii) if no taxing entity committee approval is required for the project area budget, the later

of:

- (A) the date the project area plan is adopted by the community legislative body; and
- (B) the date the agency adopts the first project area budget.

(5) "Blight" or "blighted" means the condition of an area that meets the requirements of Subsection 17B-4-604(1).

(6) "Blight hearing" means a public hearing under Subsection 17B-4-601(3) and Section 17B-4-603 regarding the existence or nonexistence of blight within the proposed redevelopment

project area.

(7) "Blight study" means a study to determine the existence or nonexistence of blight within a survey area as provided in Section 17B-4-602.

(8) "Board" means the governing body of an agency, as provided in Section 17B-4-203.

(9) "Budget hearing" means the public hearing on a draft project area budget required under Subsection 17B-4-501(2)(e).

(10) "Community" means a county, city, or town.

(11) "Economic development" means to promote the creation or retention of public or private jobs within the state through:

(a) planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within part or all of a project area; and

(b) the provision of office, industrial, manufacturing, warehousing, distribution, parking, public, or other facilities, or other improvements that benefit the state or a community.

(12) "Education housing development" means the provision of high density housing within a project area that is adjacent to a public or private institution of higher education.

(13) "Plan hearing" means the public hearing on a draft project area plan required under Subsection 17B-4-402(1)(e).

(14) "Post-June 30, 1993 project area plan" means a redevelopment, economic development, or education housing development project area plan adopted on or after July 1, 1993, whether or not amended subsequent to its adoption.

(15) "Pre-July 1, 1993 project area plan" means a redevelopment project area plan adopted before July 1, 1993, whether or not amended subsequent to its adoption.

(16) "Private," with respect to real property, means:

(a) not owned by the United States or any agency of the federal government, a public entity, or any other governmental entity; and

(b) not dedicated to public use.

(17) "Project area" means the geographic area described in a project area plan or draft project area plan where the redevelopment, economic development, or education housing development set

forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a redevelopment, economic development, or education housing development project area that includes:

- (a) the base taxable value of property in the project area;
- (b) the projected tax increment expected to be generated within the project area;
- (c) the amount of tax increment expected to be shared with other taxing entities;
- (d) the amount of tax increment expected to be used to implement the project area plan, including the estimated amount of tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
- (e) the tax increment expected to be used to cover the cost of administering the project area plan;
- (f) if the area from which tax increment is to be collected is less than the entire project area, a legal description of the portion of the project area from which tax increment will be collected; and
- (g) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected selling price.

(19) "Project area plan" means a written plan under Part 4, Project Area Plan, that, after its effective date, guides and controls the redevelopment, economic development, or education housing development activities within the project area.

(20) "Property tax" includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(21) "Public entity" means:

- (a) the state, including any of its departments or agencies; or
- (b) a political subdivision of the state, including a county, city, town, school district, special district, local district, or interlocal cooperation entity.

(22) "Public input hearing" means the public hearing required under Subsection 17B-4-402(1)(h)(ii) regarding a proposed redevelopment project.

(23) "Record property owner" or "record owner of property" means the owner of real property as shown on the records of the recorder of the county in which the property is located and includes a purchaser under a real estate contract if the contract is recorded in the office of the recorder of the county in which the property is located or the purchaser gives written notice of the real estate contract to the agency.

(24) "Redevelopment" means the development activities under a project area plan within a redevelopment project area, including:

(a) planning, design, development, demolition, clearance, construction, rehabilitation, or any combination of these, of part or all of a project area;

(b) the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;

(c) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;

(d) providing open space, including streets and other public grounds and space around buildings;

(e) providing public or private buildings, infrastructure, structures, and improvements; and

(f) providing improvements of public or private recreation areas and other public grounds.

(25) "Survey area" means an area designated by a survey area resolution for study to determine whether one or more redevelopment projects within the area are feasible.

(26) "Survey area resolution" means a resolution adopted by the agency board under Subsection 17B-4-401(1)(a) designating a survey area.

(27) (a) "Tax increment" means, except as provided in Subsection (27)(b), the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-906.1 on or after January 1, 1994 upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(28) "Taxing entity" means a public entity that levies a tax on property within a project area or proposed project area.

(29) "Taxing entity committee" means a committee representing the interests of taxing entities, created as provided in Section 17B-4-1002.

(30) "Trust fund board" means the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund.

Section 2. Section **17B-4-201** is amended to read:

**17B-4-201. Creation of agency -- Certification of incorporation -- Notice of creation.**

(1) Subject to Subsection (2), a community may, by ordinance adopted by its legislative body, create an agency.

(2) (a) Within ten days after adopting [~~a resolution~~] an ordinance under Subsection (1), the community legislative body shall cause a notice of the adoption of the [~~resolution~~] ordinance, with a copy of the [~~resolution~~] ordinance, to be filed with the lieutenant governor.

(b) Within ten days after receiving the notice under Subsection (2)(a), the lieutenant governor shall issue a certificate of incorporation for the agency and send a copy of the certificate to the community legislative body.

(c) Upon the lieutenant governor's issuance of the certificate of incorporation, the agency is created and incorporated.

(3) Within 20 days after the issuance of the certificate of incorporation, the agency shall cause a notice of the agency's creation and incorporation, with a copy of the certificate of incorporation attached, to be filed with the State Tax Commission and the state auditor.

Section 3. Section **17B-4-302** is amended to read:

**17B-4-302. Agency property exempt from levy and execution sale -- Judgment against community or agency.**

(1) (a) All agency property, including funds the agency owns or holds for purposes of this chapter, are exempt from levy and execution sale, and no execution or judicial process may issue against agency property. A judgment against an agency may not be a charge or lien upon agency property.

(b) Subsection (1)(a) does not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an agency on its funds or revenues.

(2) A judgment against the community that created the agency may not be a charge or lien upon agency property.

(3) A judgment against an agency may not be a charge or lien upon property of the community that created the agency.

Section 4. Section **17B-4-402** is amended to read:

**17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.**

(1) In order to adopt a project area plan, after adopting a resolution under Subsection 17B-4-401(1) the agency shall:

(a) prepare a draft of a project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) request input on the draft project area plan from the planning commission of the community in which the proposed project area is located;

(c) make the draft project area plan available to the public at the agency's offices during normal business hours;

(d) provide notice of the plan hearing as provided in Sections 17B-4-702 and 17B-4-704;

(e) hold a public hearing on the draft project area plan and, at that public hearing:

(i) allow public comment on:

(A) the draft project area plan; and

(B) whether the draft project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the draft project area plan;

(f) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the draft project area plan;

(g) if applicable, hold the election required under Subsection 17B-4-406(3);

(h) for a redevelopment project area plan:

(i) comply with the requirements of Part 6, Blight Determination in Redevelopment Project Areas;

(ii) before providing notice of the plan hearing, hold at least one public hearing to:

(A) inform the public about each area being considered for a redevelopment project area;

and

(B) allow public input into agency deliberations on proposing each redevelopment project area;

(iii) select one or more project areas comprising part or all of the survey area; and

(iv) before sending the first notice to assessment owners of property for a public input hearing, blight hearing, or combined public input and blight hearing, prepare and adopt guidelines setting forth and governing the reasonable opportunities of record property owners and tenants to participate in the redevelopment;

(i) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(i) the oral and written objections to the draft project area plan and evidence and testimony for or against adoption of the draft project area plan; and

(ii) whether to revise, approve, or reject the draft project area plan;

(j) approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17B-4-407; and

(k) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:



(i) if the community is a city or town, Title 10, Chapter 9, Part 3, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27, Part 3, General Plan.

(3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area plan more than one year after:

(i) for a redevelopment project area plan involving the use of eminent domain, adoption of a resolution making a finding of blight under Subsection 17B-4-601(4)(b); or

(ii) for an economic development or education housing development project area plan, the date of the plan hearing.

(b) If a project area plan is submitted to an election under Subsection 17B-4-406(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds ~~[an additional]~~ a plan hearing to consider the addition and gives notice of the ~~[additional]~~ plan hearing as required under Sections 17B-4-702 and 17B-4-704.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is ~~[- (A) located within the survey area; and (B)]~~ contiguous to the property already included in the proposed project area under the draft project area plan; ~~[and]~~

(ii) the record owner of the property consents to adding the real property to the proposed project area~~[-]; and~~

(iii) for a redevelopment project area, the property is located within the survey area.

Section 5. Section **17B-4-403** is amended to read:

**17B-4-403. Project area plan requirements.**

(1) Each project area plan and draft project area plan shall:

(a) describe the boundaries of the project area;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the

redevelopment, economic development, or education housing development;

(c) state the standards that will guide the redevelopment, economic development, or education housing development;

(d) show how the purposes of this chapter will be attained by the redevelopment, economic development, or education housing development;

(e) be consistent with the general plan of the community in which the project area is located and show that the redevelopment, economic development, or education housing development will conform to the community's general plan;

(f) if the agency board made a finding of blight under Subsection 17B-4-601(4)(b):

(i) describe how the redevelopment will reduce or eliminate blight in the project area; and

(ii) if the agency is to have the power of eminent domain under the project area plan:

~~[(ii)]~~ (A) provide record owners of property located within the redevelopment project area and their tenants reasonable opportunities to participate in the redevelopment if the record property owner or tenant enters into a participation agreement with the agency; ~~[and]~~

~~[(iii)]~~ (B) state that the agency has adopted or will adopt guidelines setting forth and governing the opportunities of record property owners and tenants to participate in the redevelopment, as required by Subsection 17B-4-402(1)(h)(iv); and

(C) include a plan for the relocation of any families and persons who will be temporarily or permanently displaced from housing facilities in the redevelopment project area;

(g) if the project area plan is for economic development, describe how the economic development will create additional jobs;

(h) if the project area plan is for education housing development, describe how the education housing development will meet the needs of the community in which the project area is located;

(i) describe any specific project or projects that are the object of the proposed redevelopment, economic development, or education housing development;

(j) identify how private developers, if any, will be selected to undertake the redevelopment, economic development, or education housing development and identify each private developer currently involved in the redevelopment, economic development, or education housing development

process;

(k) contain a time limit of no more than three years after adoption of the project area plan for the agency to commence implementation of the project area plan, unless the project area plan is adopted again as if it were an amended project area plan under Section 17B-4-411;

(l) if the project area plan authorizes the use of eminent domain, contain a time limit of no more than five years after the effective date of the project area plan for the agency to commence acquisition of property through the use of eminent domain;

(m) if the project area plan provides for tax increment to be paid to the agency:

(i) contain a time limit of no more than 25 years [~~after adoption of the project area plan~~] for tax increment to be paid to the agency from the project area unless the taxing entity committee consents to a longer period; and

(ii) contain a provision that the project area may not exceed 100 acres of private real property unless the agency obtains the consent of the taxing entity committee;

(n) state the reasons for the selection of the project area;

(o) describe the physical, social, and economic conditions existing in the project area;

(p) provide a financial analysis describing the proposed method of financing the proposed redevelopment, economic development, or education housing development;

(q) describe any tax incentives offered private entities for facilities located in the project area;

~~[(r) include a plan for the relocation of any families and persons who will be temporarily or permanently displaced from housing facilities in the project area;]~~

~~[(s)]~~ (r) contain the report and state any recommendations of the community's planning commission;

~~[(t)]~~ (s) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is:

(i) for a redevelopment project area plan, necessary and appropriate to reduce or eliminate blight; or

(ii) for an economic development or education housing development project area plan,

beneficial under a benefit analysis;

~~[(t)]~~ (t) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and

~~[(v)]~~ (u) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection ~~[(1)(s)]~~ (1)(s)(ii) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of ~~[redevelopment,]~~ economic development~~;~~ or education housing development;

(ii) efforts the agency has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking ~~[redevelopment,]~~ economic development~~;~~ or education housing development and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the ~~[redevelopment,]~~ economic development~~;~~ or education housing development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) ~~[in the case of economic development or education housing development,]~~ the associated business and economic activity likely to be stimulated; and

(iii) in the case of economic development, the number of jobs or employment anticipated to be generated or preserved.

Section 6. Section **17B-4-406** is amended to read:

**17B-4-406. Objections to project area plan -- Owners' alternative project area plan -- Election if 40% of property owners object.**

(1) At any time before the plan hearing ~~[or, if applicable, the additional plan hearing under~~

~~Subsection 17B-4-402(4)(a)~~, any person may file with the agency a written statement of objections to the draft project area plan.

(2) If the record owners of property of a majority of the private real property included within the proposed project area file a written petition before or at the plan hearing [~~or, if applicable, the additional plan hearing under Subsection 17B-4-402(4)(a)~~], proposing an alternative project area plan, the agency shall consider that proposed plan in conjunction with the project area plan proposed by the agency.

(3) (a) If the record property owners of at least 40% of the private land area within the proposed project area object in writing to the draft project area plan before or at the plan hearing [~~or, if applicable, the additional plan hearing under Subsection 17B-4-402(4)(a)~~] and do not withdraw their objections, an agency may not approve the project area plan until approved by voters within the boundaries of the agency in which the proposed project area is located at an election as provided in Subsection (3)(b).

(b) (i) Except as provided in this section, each election required under Subsection (3)(a) shall comply with Title 20A, Election Code.

(ii) An election under Subsection (3)(a) may be held on the same day and with the same election officials as an election held by the community in which the proposed project area is located.

(iii) If a majority of those voting on the proposed project area plan vote in favor of it, the project area plan shall be considered approved and the agency shall confirm the approval by resolution.

(4) If the record property owners of 2/3 of the private land area within the proposed project area object in writing to the draft project area plan before or at the plan hearing [~~or, if applicable, the additional plan hearing under Subsection 17B-4-402(4)(a)~~] and do not withdraw their objections, the project area plan may not be adopted and the agency may not reconsider the project area plan for three years.

Section 7. Section **17B-4-407** is amended to read:

**17B-4-407. Board resolution approving project area plan -- Requirements --  
Additional requirements for redevelopment project area plan.**

(1) Each board resolution approving a draft redevelopment, economic development, or education housing development project area plan as the project area plan under Subsection 17B-4-402(1)(j) shall contain:

- (a) a legal description of the boundaries of the project area that is the subject of the project area plan;
- (b) the agency's purposes and intent with respect to the project area;
- (c) the project area plan incorporated by reference;
- (d) the board findings and determinations that:
  - (i) there is a need to effectuate a public purpose;
  - (ii) there is a public benefit under the analysis described in Subsections 17B-4-403(1)(t) and (2);
  - (iii) it is economically sound and feasible to adopt and carry out the project area plan;
  - (iv) the project area plan conforms to the community's general plan; and
  - (v) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

(2) (a) As used in this Subsection (2), "comparable dwellings" means residential housing facilities that are:

- (i) within the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities;
- (ii) at rents or prices within the financial means of the families and persons displaced from the project area; and
- (iii) decent, safe, and sanitary and equal in number and available to displaced families and persons and reasonably accessible to their places of employment.

(b) In addition to the requirements under Subsection (1), each board resolution approving a redevelopment project area plan shall:

- (i) ~~[recite the board's previous]~~ state that the board previously made a finding of blight within the project area and the date of the board's finding of blight; and
- (ii) contain the board's findings and determinations that:

- (A) if the use of eminent domain is provided for in the redevelopment project area plan:
  - (I) the use of eminent domain is or may be necessary to the execution of the redevelopment project area plan; and
  - (II) adequate provisions have been made for just compensation for property acquired by eminent domain; and
- (B) if the project area plan may result in the temporary or permanent displacement of any residential occupants in the project area:
  - (I) the agency has a feasible method or plan for the relocation of families and persons displaced from the project area;
  - (II) comparable dwellings exist or will be provided to the families and persons displaced by the project area plan; and
  - (III) the board is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area are displaced and, pending the development of these housing facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

Section 8. Section **17B-4-411** is amended to read:

**17B-4-411. Amending the project area plan.**

- (1) An adopted project area plan may be amended as provided in this section.
- (2) If an agency proposes to amend an adopted project area plan to enlarge a project area:
  - (a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a project area plan[-];
  - (b) for a pre-July 1, 1993 project area plan, the base year taxable value for the new area added to the project area shall be determined under Subsection 17B-4-102(4)(a) using the effective date of the amended project area plan;
  - (c) for a post-June 30, 1993 project area plan, the base year taxable value for the new area added to the project area shall be determined under Subsection 17B-4-102(4)(b) using the date of the taxing entity committee's consent referred to in Subsection (2)(f);
  - (d) if the amended plan is to authorize the use of eminent domain within a new area to be

added to the project area:

(i) before adopting the amended project area plan the agency must make a finding regarding the existence of blight in the new area proposed to be added, following the procedures set forth in Part 6 of this chapter; and

(ii) for the new area added, the time limit of Subsection 17B-4-403(1)(l) may be measured from the effective date of the amendment to the project area plan;

(e) if the agency made a finding of the existence of blight regarding the project area as originally adopted:

(i) it is not necessary to repeat the requirements of Part 6 of this chapter for the original area; and

(ii) regarding the area described in the project area plan as originally adopted, the time limit established by Subsection 17B-4-403(1)(l) for the agency to commence acquisition of property through the use of eminent domain shall not be affected or changed by the amendment; and

(f) for a post-June 30, 1993 project area plan, the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area.

(3) If a proposed amendment does not propose to enlarge a project area, an agency board may adopt a resolution approving an amendment to an adopted project area plan after:

(a) the agency gives notice, as provided in Section 17B-4-702, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the agency board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected; or

(ii) to permit the agency to receive a greater percentage of tax increment or to receive tax increment for a longer period of time than allowed under the adopted project area plan; and

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to



expand the area from which tax increment is collected to exceed 100 acres of private real property;  
and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan.

(4) (a) Notwithstanding ~~Subsection~~ Subsections (2)(a) and (3) an adopted project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c)(i) if the amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel of real property from a project area because the agency determines that:

(A) the parcel is no longer blighted; or

(B) inclusion of the parcel is no longer necessary or desirable to the project area; and

(b) An amendment removing a parcel of real property from a project area under Subsection (4)(a)(ii) may not be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Section 17B-4-410 to the same extent as if the amendment were a project area plan.

Section 9. Section **17B-4-603** is amended to read:

**17B-4-603. Blight hearing -- Owners may review evidence of blight.**

(1) In each hearing required under Subsection 17B-4-601(3), the agency shall:

(a) permit all evidence of the existence or nonexistence of blight within the proposed redevelopment project area to be presented; and

(b) permit each record owner of property located within the proposed redevelopment project area or the record property owner's representative the opportunity to:

(i) examine and cross-examine witnesses providing evidence of the existence or nonexistence of blight; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

(2) The [~~board~~] agency shall allow record owners of property located within a proposed redevelopment project area the opportunity, for at least 30 days before the hearing, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Section 10. Section **17B-4-702** is amended to read:

**17B-4-702. Requirements for notice provided by agency.**

(1) The notice required by Section 17B-4-701 shall be given by:

(a) (i) publishing notice, excluding the map referred to in Subsection (2)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least once a week for the four successive weeks immediately preceding the hearing; or

(ii) if there is no newspaper of general circulation, posting notice in at least three conspicuous places within the county in which the project area or proposed project area is located;

(b) at least 30 days before the hearing:

(i) sending notice by certified mail to:

(A) each assessment owner of property located within the project area or proposed project area; and

(B) each assessment owner of property located outside but within 300 feet of the project area or proposed project area;

(ii) mailing notice to:

(A) the State Tax Commission;

(B) the assessor and auditor of the county in which the project area or proposed project area is located; and

(C) (I) each member of the taxing entity committee; or

(II) if a taxing entity committee has not yet been formed, the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The agency shall include in each notice required under Section 17B-4-701:

(a) a specific description of the boundaries of the project area or proposed project area;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing;

(d) a statement of the date, time, and location of the hearing.

(3) The agency shall include in each notice under Subsection (1)(b)(ii):

(a) a statement that property tax revenues resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for redevelopment, economic development, or education housing development purposes rather than to the taxing entity to which the tax revenues would otherwise have been paid if:

(i) a majority of the taxing entity committee consents to the project area budget; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(4) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose served by the project and any future tax benefits expected to result from the project.

Section 11. Section **17B-4-703** is amended to read:

**17B-4-703. Additional requirements for notices relating to redevelopment.**

(1) The first notice to an assessment owner of property within a proposed redevelopment project area for a public input hearing, blight hearing, or combined public input and blight hearing under Subsection 17B-4-801(1) shall include the statement required by Section 17B-4-902.

(2) Each notice under Section 17B-4-702 for a blight hearing shall include a statement that:

- (a) a redevelopment project area is being proposed;
- (b) the proposed redevelopment project area may be declared to have blight;
- (c) the record owner of property within the proposed project area has the right to present evidence at the blight hearing contesting the existence of blight;
- (d) the agency will notify the assessment property ~~[owner]~~ owners referred to in Subsection 17B-4-702(1)(b)(i) of each additional public hearing held by the agency concerning the redevelopment project prior to the adoption of the redevelopment project area plan; and
- (e) persons contesting the existence of blight in the proposed redevelopment project area may appear before the agency board and show cause why the proposed redevelopment project area should not be designated as a redevelopment project area.

Section 12. Section **17B-4-705** is amended to read:

**17B-4-705. Notice required for continued hearing.**

The board shall give notice of a hearing continued under Section 17B-4-802 by~~[:-(1)]~~ announcing at the hearing:

- (1) the date, time, and place the hearing will be resumed; or
- (2) that it is being continued to a later time and causing a notice of the continued hearing to be:
  - (a) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or
  - (b) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located.

Section 13. Section **17B-4-802** is amended to read:

**17B-4-802. Continuing a hearing.**

~~[By announcing at the hearing that it is being continued to a later date]~~ Pursuant to the provisions of Section 17B-4-705, the board may continue from time to time a:

- (1) blight hearing;
- (2) public input hearing;
- (3) combined blight hearing and plan hearing under Subsection 17B-4-801(1);

- (4) plan hearing;
- (5) budget hearing; or
- (6) combined plan hearing and budget hearing under Subsection 17B-4-801(2).

Section 14. Section **17B-4-1001** is amended to read:

**17B-4-1001. Agency receipt and use of tax increment -- Distribution of tax increment.**

(1) An agency may receive and use tax increment, as provided in this part.

(2) (a) The applicable length of time or number of years for which an agency is to be paid tax increment under this part 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[-]; or

(ii) for a post-June 30, 1993 project area plan, from the first tax year the agency is to receive tax increment as shown in the project area budget.

(b) Tax increment may not be paid to an agency for a tax year prior to the tax year following the effective date of the project area plan.

(3) With the written consent of a taxing entity, an agency may be paid tax increment, from that taxing entity's tax revenues only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this chapter.

(4) Each county that collects property tax on property within a project area shall pay and distribute to the agency the tax increment that the agency is entitled to collect under this chapter, in the manner and at the time provided in Section 59-2-1365.

Section 15. Section **17B-4-1002** is amended to read:

**17B-4-1002. Taxing entity committee.**

(1) Each agency that adopts or proposes to adopt a post-June 30, 1993 project area plan shall, and any other agency may, cause a taxing entity committee to be created.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

(B) (I) in counties 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 counties of the first class, two representatives appointed by the county executive of the county in which the agency is located;

(C) if the agency was created by a city or town, two representatives appointed by resolution of the legislative body of that city or town;

(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 under Subsection (2) shall be appointed within 30 days after 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 agency board may appoint a person 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) A taxing entity committee represents all taxing entities regarding a project area and may:

(a) cast votes that will be binding on all taxing entities;

(b) negotiate with the agency concerning a draft project area plan;

(c) approve or disapprove a project area budget as provided in Section 17B-4-505;

(d) approve or disapprove amendments to a project area budget as provided in Section 17B-4-507;

(e) approve exceptions to the limits on the value and size of a project area imposed under this chapter;

(f) approve exceptions to the percentage of tax increment and the period of time that tax increment is paid to the agency as provided in this part;

(g) approve the use of tax increment for access and utilities outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as provided in Subsection 17B-4-1007(1)(a)(ii)(D);

(h) waive the restrictions imposed by Subsection 17B-4-503(2)(a); and

(i) give other taxing entity committee approval or consent required or allowed under this chapter.

(4) A quorum of a taxing entity committee consists of:

(a) except as provided in Subsection (4)(b):

(i) if the project area is located within a city or town, five members; or

(ii) if the project area is not located within a city or town, four members; or

(b) for an education housing development project area as to which the school district has elected under Subsection 17B-4-1004(5) not to allow the agency to be paid tax increment from school district tax revenues:

(i) if the project area is located within a city or town, three members; or

(ii) if the project area is not located within a city or town, two members.

(5) Taxing entity committee approval, consent, or other action requires the affirmative vote of a majority of a quorum present at a taxing entity committee meeting.

(6) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings.

(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] assessor 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.

Section 16. Section **17B-4-1004** is amended to read:

**17B-4-1004. 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 only.
- (2) An agency 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 17B-4-504:
    - (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 17B-4-504:
    - (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.
- (3) (a) 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 (2) to a maximum of 25 years, including the years the agency is paid tax increment under Subsection (2), if:
  - (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:
    - (A) 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:
      - (I) an interchange on I-15, whether or not the interchange is located within a project area;
    - or
    - (II) 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
    - (B) the installation, construction, or reconstruction of the interchange or frontage and other roads has begun on or before June 30, 2002;
  - (ii) for an agency in a city of the first or second class:
    - (A) 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 ~~[Subsection 59-19-702(3)]~~ 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

(B) the installation or construction of the recreational or cultural facility has begun on or before June 30, 2002.

(b) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in this Subsection (3).

~~[(b)]~~ (c) Notwithstanding Subsection (3)(a), a school district may not, without its consent, receive less tax increment because of application of Subsection (3)(a) than it would have received without that subsection.

(4) Unless the taxing entity committee consents, an agency may not be paid tax increment from the project area for more than 25 years ~~[after adoption of the project area plan]~~.

(5) (a) A school district that levies a tax on property located within a project area under an education housing development project area plan may elect not to allow the agency to be paid tax increment from the property tax revenues generated by the school district.

(b) An election under Subsection (5)(a) shall be made in writing to the agency before the taxing entity committee's approval of the project area budget.

(c) If a school district makes an election under this Subsection (5):

(i) the agency may not be paid tax increment from property tax revenues generated by the school district; and

(ii) the school district representatives and the State Board of Education representative on the taxing entity committee may not vote on any matter concerning the education housing development project area or project area budget.

Section 17. Section **17B-4-1007** is amended to read:

**17B-4-1007. Allowable uses of tax increment.**

(1) (a) An agency may use tax increment:

(i) for any of the purposes for which the use of tax increment is authorized under this

chapter;

(ii) to pay for, including financing or refinancing, all or part of:

(A) the redevelopment, economic development, or education housing development in the project area from which the tax increment funds were collected;

(B) housing expenditures, projects, or programs as provided in Section 17B-4-1009 or 17B-4-1010;

(C) with the consent of the community legislative body and subject to Subsection [~~(3)~~] (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 tax increment funds were collected; and

(D) with the consent of the community legislative body and the taxing entity committee, the cost of the installation of publicly owned utilities and access outside the project area from which the tax increment funds were collected if the agency board and the community legislative body determine by resolution that the utilities and access are of benefit to the project area; or

(iii) for administrative, overhead, legal, and other operating expenses of the agency.

(b) The determination of the agency board and the community legislative body under Subsection (1)(a)(ii)(D) regarding benefit to the project area shall be final and conclusive.

(2) (a) An agency may contract with the community that created the agency or another public entity to use tax increment to reimburse the cost of items authorized by this chapter to be paid by the agency that have been or will be paid by the community or other public entity.

(b) If land has been or will be acquired or the cost of an improvement has been or will be paid by another public entity and the land or improvement has been or will be leased to the community, an agency may contract with and make reimbursement from tax increment funds to the community.

(3) An agency created by a city of the first or second class may use tax increment from one project area in another project area to pay all or part of the value of the land for and the cost of 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, if:

(a) construction on the convention center or sports complex or related building, facility, structure, or other improvement begins on or before June 30, 2002; and

(b) the 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.

(4) Notwithstanding any other provision of this chapter, an agency may not use tax increment

to construct municipal buildings, courts or other judicial buildings, or fire stations.

Section 18. Section **17B-4-1010** is amended to read:

**17B-4-1010. Income targeted housing -- Agency may use tax increment for income targeted housing.**

(1) As used in this section:

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

(b) "Fair share ratio" means the ratio derived by:

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

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

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

(d) "Housing funds" means the funds allocated in the project area budget under Section 17B-4-504 for the purposes provided in Subsection (2).

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

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

(2) (a) Each agency shall use all funds allocated for housing under this section to:

(i) pay part or all of the cost of land or construction of income targeted housing within the community that created 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 community that created the agency;

(iii) 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 blight has been found to exist;

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

(v) 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 (2)(a)(i), (ii), (iii), or (iv); or

(vi) 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 (2)(a)(i), (ii), (iii), or (iv).

(b) As an alternative to the requirements of Subsection (2)(a), an agency may pay all or any portion of housing funds to:

(i) the community for use as provided under Subsection (2)(a);

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

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

(3) The agency or community shall separately account for the housing funds, together with all interest earned by the housing funds and all payments or repayments for loans, advances, or grants from the housing funds.

(4) In using housing funds under Subsection (2)(a), an agency may lend, grant, or contribute housing funds to a person, public body, housing authority, private entity or business, or nonprofit organization for use as provided in Subsection (2)(a).

(5) An agency may:

(a) issue bonds from time to time to finance a housing undertaking 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 (5)(a) previously issued by the agency.

(6) (a) If an agency fails to provide housing funds in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection 17B-4-505(2), the trust fund board may bring legal action to compel the agency to provide the housing funds.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the trust fund board a reasonable attorney's fee, unless the court finds that the action was frivolous; and

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