

1 **REDEVELOPMENT AGENCY AMENDMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Curtis S. Bramble**

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**6 LONG TITLE**

7 **General Description:**

8 This bill modifies provisions of the Redevelopment Agencies Act.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ modifies membership on the taxing entity committee;
- 12 ▶ provides for one taxing entity committee per county, with some standing members  
13 and other members who serve if the project area is within the boundaries of the  
14 entity they represent;
- 15 ▶ requires the taxing entity committee's approval before an agency may commission a  
16 blight study;
- 17 ▶ requires an agency's finding of blight to be approved by the taxing entity committee;
- 18 ▶ prohibits tax increment from being paid to or used by an agency if an objective of  
19 the project is retail sales or the development of a business, office, or industrial park;
- 20 ▶ prohibits an amendment to a project area plan that increases the size of the project  
21 area;
- 22 ▶ prohibits an amendment to a project area budget that increases the amount of tax  
23 increment to be paid an agency or lengthens the time that tax increment is to be paid  
24 to an agency; and
- 25 ▶ allows tax increment to be used in a redevelopment project area only for  
26 eliminating blight.

27 **Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **17B-4-102**, as last amended by Chapter 256, Laws of Utah 2003

34 **17B-4-402**, as last amended by Chapter 205, Laws of Utah 2002

35 **17B-4-403**, as last amended by Chapter 256, Laws of Utah 2003

36 **17B-4-411**, as last amended by Chapter 205, Laws of Utah 2002

37 **17B-4-507**, as enacted by Chapter 133, Laws of Utah 2001

38 **17B-4-601**, as enacted by Chapter 133, Laws of Utah 2001

39 **17B-4-602**, as last amended by Chapter 256, Laws of Utah 2003

40 **17B-4-603**, as last amended by Chapter 205, Laws of Utah 2002

41 **17B-4-604**, as last amended by Chapter 256, Laws of Utah 2003

42 **17B-4-605**, as enacted by Chapter 133, Laws of Utah 2001

43 **17B-4-1002**, as last amended by Chapter 205, Laws of Utah 2002

44 **17B-4-1005**, as enacted by Chapter 133, Laws of Utah 2001



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

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

48 **17B-4-102. Definitions.**

49 (1) "Agency" means a separate body corporate and politic, created under Section  
50 17B-4-201 or previous law, that is a political subdivision of the state, that is created to  
51 undertake or promote redevelopment, economic development, or education housing  
52 development, or any combination of them, as provided in this chapter, and whose geographic  
53 boundaries are coterminous with:

54 (a) for an agency created by a county, the unincorporated area of the county; and

55 (b) for an agency created by a city or town, the boundaries of the city or town.

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

- 59 (3) "Assessment roll" has the meaning as defined in Section 59-2-102.
- 60 (4) "Base taxable value" means the taxable value of the property within a project area  
61 from which tax increment will be collected, as shown upon the assessment roll last equalized  
62 before:
- 63 (a) for a pre-July 1, 1993 project area plan, the effective date of the project area plan;  
64 or
- 65 (b) for a post-June 30, 1993 project area plan:
- 66 (i) the date of the taxing entity committee's approval of the first project area budget; or  
67 (ii) if no taxing entity committee approval is required for the project area budget, the  
68 later of:
- 69 (A) the date the project area plan is adopted by the community legislative body; and  
70 (B) the date the agency adopts the first project area budget.
- 71 (5) "Blight" or "blighted" means the condition of an area that meets the requirements of  
72 Subsection 17B-4-604(1).
- 73 (6) "Blight hearing" means a public hearing under Subsection 17B-4-601~~(3)~~(1)(c) and  
74 Section 17B-4-603 regarding the existence or nonexistence of blight within the proposed  
75 redevelopment project area.
- 76 (7) "Blight study" means a study to determine the existence or nonexistence of blight  
77 within a survey area as provided in Section 17B-4-602.
- 78 (8) "Board" means the governing body of an agency, as provided in Section 17B-4-203.
- 79 (9) "Budget hearing" means the public hearing on a draft project area budget required  
80 under Subsection 17B-4-501(2)(e).
- 81 (10) "Community" means a county, city, or town.
- 82 (11) "Economic development" means to promote the creation or retention of public or  
83 private jobs within the state through:
- 84 (a) planning, design, development, construction, rehabilitation, business relocation, or  
85 any combination of these, within part or all of a project area; and
- 86 (b) the provision of office, industrial, manufacturing, warehousing, distribution,  
87 parking, public, or other facilities, or other improvements that benefit the state or a community.
- 88 (12) "Education housing development" means the provision of high density housing  
89 within a project area that is adjacent to a public or private institution of higher education.

90 (13) "Loan fund board" means the Olene Walker Housing Loan Fund Board,  
91 established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

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

94 (15) "Post-June 30, 1993 project area plan" means a redevelopment, economic  
95 development, or education housing development project area plan adopted on or after July 1,  
96 1993, whether or not amended subsequent to its adoption.

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

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

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

102 (b) not dedicated to public use.

103 (18) "Project area" means the geographic area described in a project area plan or draft  
104 project area plan where the redevelopment, economic development, or education housing  
105 development set forth in the project area plan or draft project area plan takes place or is  
106 proposed to take place.

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

110 (a) the base taxable value of property in the project area;

111 (b) the projected tax increment expected to be generated within the project area;

112 (c) the amount of tax increment expected to be shared with other taxing entities;

113 (d) the amount of tax increment expected to be used to implement the project area plan,  
114 including the estimated amount of tax increment to be used for land acquisition, public  
115 improvements, infrastructure improvements, and loans, grants, or other incentives to private  
116 and public entities;

117 (e) the tax increment expected to be used to cover the cost of administering the project  
118 area plan;

119 (f) if the area from which tax increment is to be collected is less than the entire project  
120 area, a legal description of the portion of the project area from which tax increment will be

121 collected; and

122 (g) for property that the agency owns and expects to sell, the expected total cost of the  
123 property to the agency and the expected selling price.

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

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

129 (22) "Public entity" means:

130 (a) the state, including any of its departments or agencies; or

131 (b) a political subdivision of the state, including a county, city, town, school district,  
132 special district, local district, or interlocal cooperation entity.

133 (23) "Public input hearing" means the public hearing required under Subsection  
134 17B-4-402(1)(h)(ii) regarding a proposed redevelopment project.

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

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

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

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

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

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

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

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

154 (26) "Superfund site":

155 (a) means an area included in the National Priorities List under the Comprehensive  
156 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

157 (b) includes an area formerly included in the National Priorities List, as described in  
158 Subsection (26)(a), but removed from the list following remediation that leaves on site the  
159 waste that caused the area to be included in the National Priorities List.

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

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

164 (29) (a) "Tax increment" means, except as provided in Subsection (29)(b), the  
165 difference between:

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

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

171 (b) "Tax increment" does not include taxes levied and collected under Section  
172 59-2-906.1 on or after January 1, 1994 upon the taxable property in the project area unless:

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

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

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

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

181 Section 2. Section **17B-4-402** is amended to read:

182 **17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.**

183 (1) In order to adopt a project area plan, after adopting a resolution under Subsection  
184 17B-4-401(1) the agency shall:

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

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

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

191 (d) provide notice of the plan hearing as provided in Sections 17B-4-702 and  
192 17B-4-704;

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

194 (i) allow public comment on:

195 (A) the draft project area plan; and

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

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

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

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

202 (h) for a redevelopment project area plan:

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

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

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

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

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

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

214 and tenants to participate in the redevelopment;

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

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

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

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

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

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

225 (a) has a planning commission; and

226 (b) has adopted a general plan under:

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

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

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

231 (i) for a redevelopment project area plan involving the use of eminent domain,  
232 adoption of a resolution making a finding of blight under Subsection  
233 17B-4-601~~[(4)(b)]~~(1)(d)(ii); or

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

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

239 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be  
240 modified to add real property to the proposed project area unless the board holds a plan hearing  
241 to consider the addition and gives notice of the plan hearing as required under Sections  
242 17B-4-702 and 17B-4-704.

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



245 (i) the property is contiguous to the property already included in the proposed project  
246 area under the draft project area plan;

247 (ii) the record owner of the property consents to adding the real property to the  
248 proposed project area; and

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

250 Section 3. Section **17B-4-403** is amended to read:

251 **17B-4-403. Project area plan requirements.**

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

253 (a) describe the boundaries of the project area;

254 (b) contain a general statement of the land uses, layout of principal streets, population  
255 densities, and building intensities of the project area and how they will be affected by the  
256 redevelopment, economic development, or education housing development;

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

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

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

264 (f) if the agency board made a finding of blight under Subsection

265 17B-4-601[(4)(b)](1)(d)(ii):

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

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

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

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

275 (C) include a plan for the relocation of any families and persons who will be

276 temporarily or permanently displaced from housing facilities in the redevelopment project area;

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

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

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

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

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

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

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

295 (i) contain a time limit of no more than 25 years for tax increment to be paid to the  
296 agency from the project area unless the taxing entity committee consents to a longer period;  
297 and

298 (ii) contain a provision that the project area may not exceed 100 acres of private real  
299 property unless:

300 (A) the agency obtains the consent of the taxing entity committee; or

301 (B) the project area is a superfund site;

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

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

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

306 (q) describe any tax incentives offered private entities for facilities located in the

307 project area;

308 (r) contain the report and state any recommendations of the community's planning  
309 commission;

310 (s) include an analysis, as provided in Subsection (2), of whether adoption of the  
311 project area plan is:

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

314 (ii) for an economic development or education housing development project area plan,  
315 beneficial under a benefit analysis;

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

319 (u) include other information that the agency determines to be necessary or advisable.

320 (2) Each analysis under Subsection (1)(s)(ii) shall consider:

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

323 (i) an evaluation of the reasonableness of the costs of economic development or  
324 education housing development;

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

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

329 (iv) an estimate of the total amount of tax increment that will be expended in  
330 undertaking economic development or education housing development and the length of time  
331 for which it will be expended; and

332 (b) the anticipated public benefit to be derived from the economic development or  
333 education housing development, including:

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

335 (ii) the associated business and economic activity likely to be stimulated; and

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

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

339 **17B-4-411. Amending the project area plan.**

340 (1) ~~Am~~ Subject to Subsection (6), an adopted project area plan may be amended as  
341 provided in this section.

342 (2) If an agency proposes to amend an adopted project area plan to enlarge a project  
343 area:

344 (a) subject to Subsection (2)(e), the requirements under this part that apply to adopting  
345 a project area plan apply equally to the proposed amendment as if it were a project area plan;

346 (b) for a pre-July 1, 1993 project area plan, the base year taxable value for the new area  
347 added to the project area shall be determined under Subsection 17B-4-102(4)(a) using the  
348 effective date of the amended project area plan;

349 (c) for a post-June 30, 1993 project area plan, the base year taxable value for the new  
350 area added to the project area shall be determined under Subsection 17B-4-102(4)(b) using the  
351 date of the taxing entity committee's consent referred to in Subsection (2)(f);

352 (d) if the amended plan is to authorize the use of eminent domain within a new area to  
353 be added to the project area:

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

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

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

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

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

368 (f) for a post-June 30, 1993 project area plan, the agency shall obtain the consent of the

369 taxing entity committee before the agency may collect tax increment from the area added to the  
370 project area.

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

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

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

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

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

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

382 (iii) for an amendment to a project area plan that was adopted before April 1, 1983, to  
383 expand the area from which tax increment is collected to exceed 100 acres of private real  
384 property; and

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

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

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

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

398 (A) the parcel is no longer blighted; or

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

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

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

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

410 (6) A project area plan may not be amended after May 1, 2005, to enlarge or add to a  
411 project area.

412 Section 5. Section **17B-4-507** is amended to read:

413 **17B-4-507. Amending the project area budget.**

414 (1) [~~Am~~] Subject to Subsection (5), an agency may by resolution amend a project area  
415 budget as provided in this section.

416 (2) To amend an adopted project area budget, the agency shall:

417 (a) advertise and hold one public hearing on the proposed amendment as provided in  
418 Subsection (3);

419 (b) obtain the approval of the taxing entity committee if the agency was required under  
420 Section 17B-4-505 to obtain the consent of the taxing entity committee for the project area  
421 budget as originally adopted; and

422 (c) adopt a resolution amending the project area budget.

423 (3) The public hearing required under Subsection (2)(a) shall be conducted according  
424 to the procedures and requirements of Sections 17B-4-501 and 17B-4-502, except that if the  
425 amended project area budget proposes that the agency be paid a greater proportion of tax  
426 increment from a project area than was to be paid under the previous project area budget, the  
427 advertisement shall state the percentage paid under the previous project area budget and the  
428 percentage proposed under the amended project area budget.

429 (4) If a proposed amendment is not adopted, the agency shall continue to operate under  
430 the previously adopted project area budget without the proposed amendment.

431 (5) A project area budget may not be amended after May 1, 2005, if the amendment  
 432 provides for the agency to receive more tax increment or tax increment for a longer period of  
 433 time than allowed under the project area budget without the amendment.

434 Section 6. Section **17B-4-601** is amended to read:

435 **17B-4-601. Additional procedure for adopting a redevelopment project area**  
 436 **plan.**

437 (1) In addition to other applicable requirements for adopting a project area plan, to  
 438 adopt a redevelopment project area plan the agency shall:

439 ~~[(1)]~~ (a) after receiving the taxing entity committee's consent for a blight study, cause a  
 440 blight study to be conducted within the survey area as provided in Section 17B-4-602;

441 ~~[(2)]~~ (b) provide notice of a blight hearing as required under Part 7, Notice  
 442 Requirements;

443 ~~[(3)]~~ (c) hold a blight hearing as provided in Section 17B-4-603; and

444 ~~[(4)]~~ (d) after the blight hearing has been held, hold a board meeting, either at the same  
 445 time as the blight hearing or at a subsequent board meeting, at which the board shall:

446 ~~[(a)]~~ (i) consider:

447 ~~[(i)]~~ (A) the issue of blight and the evidence and information relating to the existence  
 448 or nonexistence of blight; and

449 ~~[(ii)]~~ (B) whether adoption of one or more redevelopment project area plans should be  
 450 pursued; and

451 ~~[(b) by resolution]~~ (ii) make a finding regarding the existence of blight in the proposed  
 452 redevelopment project area.

453 (2) The agency's finding of blight under Subsection (1) has no effect until approved by  
 454 the taxing entity committee.

455 Section 7. Section **17B-4-602** is amended to read:

456 **17B-4-602. Blight study -- Requirements -- Deadline.**

457 (1) Each blight study required under Subsection 17B-4-601(1)(a) shall:

458 (a) provide data so the board and taxing entity committee may determine:

459 (i) whether the conditions described in Subsections 17B-4-604(1)(a)(i) and (ii) exist in  
 460 part or all of the survey area;

461 (ii) whether the factors listed in Subsection 17B-4-604(1)(a)(iii) are present in the

462 survey area; and

463 (iii) whether the survey area contains a superfund site;

464 (b) include a written report setting forth:

465 (i) the conclusions reached; and

466 (ii) any other information requested by the agency to determine whether a  
467 redevelopment project area is feasible; and

468 (c) be completed within one year after the adoption of the survey area resolution.

469 (2) (a) If a blight study is not completed within one year after the adoption of the  
470 resolution under Subsection 17B-4-401(1)(a) designating a survey area, the agency may not  
471 approve a redevelopment project area plan based on that blight study unless it first adopts a  
472 new resolution under Subsection 17B-4-401(1)(a).

473 (b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a  
474 resolution under Subsection 17B-4-401(1)(a) adopted for the first time, except that any actions  
475 taken toward completing a blight study under the resolution that the new resolution replaces  
476 shall be considered to have been taken under the new resolution.

477 Section 8. Section **17B-4-603** is amended to read:

478 **17B-4-603. Blight hearing -- Owners may review evidence of blight.**

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

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

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

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

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

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

492 Section 9. Section **17B-4-604** is amended to read:



493           **17B-4-604. Conditions on board determination of blight -- Conditions of blight**  
494 **caused by the developer.**

495           (1) An agency board may not make a finding of blight [~~in a resolution~~] under  
496 [~~Subsection~~] Section 17B-4-601[~~(4)(b)~~] unless the board finds that the redevelopment project  
497 area:

498           (a) (i) contains buildings or improvements used or intended to be used for residential,  
499 commercial, industrial, or other urban purposes, or any combination of those uses;

500           (ii) contains buildings or improvements on at least 50% of the number of parcels of  
501 private real property whose acreage is at least 50% of the acreage of the private real property  
502 within the proposed redevelopment project area; and

503           (iii) is unfit or unsafe to occupy or may be conducive to ill health, transmission of  
504 disease, infant mortality, juvenile delinquency, or crime because of any three or more of the  
505 following factors:

506           (A) defective character of physical construction;

507           (B) high density of population or overcrowding;

508           (C) inadequate ventilation, light, or spacing between buildings;

509           (D) mixed character and shifting of uses, resulting in obsolescence, deterioration, or  
510 dilapidation;

511           (E) economic deterioration or continued disuse;

512           (F) lots of irregular shape or inadequate size for proper usefulness and development, or  
513 laying out of lots in disregard of the contours and other physical characteristics of the ground  
514 and surrounding conditions;

515           (G) inadequate sanitation or public facilities which may include streets, open spaces,  
516 and utilities;

517           (H) areas that are subject to being submerged by water; and

518           (I) existence of any hazardous or solid waste, defined as any substance defined,  
519 regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste,  
520 pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the  
521 environment under state or federal law or regulation; or

522           (b) is a superfund site.

523           (2) (a) For purposes of Subsection (1), if a developer involved in the redevelopment

524 project causes a condition listed in Subsection (1)(a)(iii) within the project area, the condition  
525 caused by the developer may not be used in the determination of blight.

526 (b) Subsection (2)(a) does not apply to a condition that was caused by an owner or  
527 tenant who becomes a developer under Section 17B-4-901.

528 Section 10. Section **17B-4-605** is amended to read:

529 **17B-4-605. Challenging a finding of blight -- Time limit -- De novo review.**

530 (1) If the board makes a finding of blight under [~~Subsection~~] Section  
531 17B-4-601[(4)(b)] and that finding is approved by the taxing entity committee, a record owner  
532 of property located within the proposed redevelopment project area may challenge the finding  
533 by filing an action with the district court for the county in which the property is located.

534 (2) Each challenge under Subsection (1) shall be filed within 30 days after the [~~board's~~  
535 ~~adoption of the resolution containing the~~] taxing entity committee approves the board's finding  
536 of blight.

537 (3) In each action under this section:

538 (a) the district court shall review de novo the finding of blight; and

539 (b) the agency maintains the burden of proof regarding the existence of blight.

540 Section 11. Section **17B-4-1002** is amended to read:

541 **17B-4-1002. Taxing entity committee.**

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

544 (1) There is established for each county a taxing entity committee.

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

546 (A) [~~two~~] one school district [~~representatives~~] representative appointed as provided in  
547 Subsection (2)(a)(ii);

548 [~~(B) (f) in counties of the second, third, fourth, fifth, or sixth class, two representatives~~  
549 ~~appointed by resolution of the legislative body of the county in which the agency is located; or]~~

550 [~~(H) in counties of the first class, two representatives appointed by the county executive~~  
551 ~~of the county in which the agency is located;]~~

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

554 (B) one representative from the county auditor's office, appointed by the county

555 auditor;

556 (C) one representative from the county assessor's office, appointed by the county

557 assessor;

558 (D) one member representing municipalities within the county in which the agency is

559 located, appointed by majority vote of the mayors of all municipalities within the county;

560 ~~[(D)]~~ (E) one representative appointed by the State Board of Education; and

561 ~~[(E)]~~ (F) one representative selected by majority vote of the legislative bodies or

562 governing boards of all other taxing entities that levy a tax on property within the [agency's

563 boundaries] county, to represent the interests of those taxing entities on the taxing entity

564 committee.

565 (ii) (A) If the ~~[agency boundaries include]~~ county includes only one school district, that

566 school district shall appoint the ~~[two]~~ school district ~~[representatives]~~ representative under

567 Subsection (2)(a)(i)(A).

568 (B) If the ~~[agency boundaries include]~~ county includes more than one school district,

569 those school districts shall jointly appoint the ~~[two]~~ school district ~~[representatives]~~

570 representative under Subsection (2)(a)(i)(A).

571 ~~[(b) (i) Each taxing entity committee representative under Subsection (2) shall be~~

572 ~~appointed within 30 days after the agency provides notice of the creation of the taxing entity~~

573 ~~committee.]~~

574 ~~[(ii) If a representative is not appointed within the time required under Subsection~~

575 ~~(2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the~~

576 ~~place of the missing representative until that representative is appointed.]~~

577 ~~[(c) (i) A taxing entity committee representative may be appointed for a set term or~~

578 ~~period of time, as determined by the appointing authority under Subsection (2)(a)(i).]~~

579 (iii) In addition to the taxing entity committee members specified in Subsection

580 (2)(a)(i):

581 (A) if the project area to be described in a proposed project area plan is within the

582 boundaries of a school district, that school district shall appoint one member to the taxing

583 entity committee to serve on the committee only for purposes of the project that is the subject

584 of the proposed project area plan; and

585 (B) if the agency proposing a project area plan was created by a municipality, that

586 municipality shall appoint one member to the taxing entity committee to serve on the  
587 committee only for purposes of the project that is the subject of the proposed project area plan.

588 (b) (i) Except as provided in Subsection (2)(b)(ii), each taxing entity committee  
589 member shall serve a term of four years.

590 (ii) The initial term of half or, if an odd number, approximately half of the members of  
591 the initial taxing entity committee in each county shall be two years.

592 [~~(ii)~~] (iii) Each taxing entity committee [~~representative~~] member shall serve until a  
593 successor is appointed and qualified.

594 [~~(c)~~] (i) Upon the appointment of each representative under Subsection (2)(a)(i),  
595 whether an initial appointment or an appointment to replace an already serving representative,  
596 the appointing authority shall:

597 (A) notify the agency in writing of the name and address of the newly appointed  
598 representative; and

599 (B) provide the agency a copy of the resolution making the appointment or, if the  
600 appointment is not made by resolution, other evidence of the appointment.

601 (ii) Each appointing authority of a taxing entity committee representative under  
602 Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a  
603 representative appointed by that appointing authority.

604 (3) A taxing entity committee represents all taxing entities regarding a project area and  
605 may:

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

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

608 (c) approve or disapprove the conducting of a blight study under Section 17B-4-601;

609 (d) approve or disapprove the agency's finding of blight under Section 17B-4-601;

610 [~~(e)~~] (e) approve or disapprove a project area budget as provided in Section 17B-4-505;

611 [~~(f)~~] (f) approve or disapprove amendments to a project area budget as provided in  
612 Section 17B-4-507;

613 [~~(g)~~] (g) approve exceptions to the limits on the value and size of a project area  
614 imposed under this chapter;

615 [~~(h)~~] (h) approve exceptions to the percentage of tax increment and the period of time  
616 that tax increment is paid to the agency as provided in this part;

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

620           ~~[(h)]~~ (j) waive the restrictions imposed by Subsection 17B-4-503(2)(a); and

621           ~~[(i)]~~ (k) give other taxing entity committee approval or consent required or allowed  
622 under this chapter.

623           (4) A quorum of a taxing entity committee consists of~~[:]~~ a majority of all members of  
624 the taxing entity committee.

625           ~~[(a) except as provided in Subsection (4)(b):]~~

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

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

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

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

632           ~~[(ii) if the project area is not located within a city or town, two members:]~~

633           (5) Taxing entity committee approval, consent, or other action requires the affirmative  
634 vote of a majority of all committee members present at a meeting where a quorum is present ~~[at~~  
635 ~~a taxing entity committee meeting]~~.

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

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

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

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

648 and

649 (ii) the assessed value.

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

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

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

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

659 (i) at least annually; and

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

664 Section 12. Section **17B-4-1005** is amended to read:

665 **17B-4-1005. Limitations on tax increment.**

666 (1) ~~[(a)]~~ If the development of retail sales of goods is ~~[the primary]~~ an objective of the  
667 redevelopment project area or if the development of an office, business, or industrial park is an  
668 objective of the redevelopment, economic development, or education housing development  
669 project area, tax increment may not be paid to or used by an agency [unless a finding of blight  
670 is made under Part 6, Blight Determination in Redevelopment Project Areas:] after May 1,  
671 2005, unless the tax increment had been previously pledged to pay for bonds issued by the  
672 agency or to support other contractual obligations of the agency.

673 ~~[(b) (i) Incidental or subordinate development of retail sales of goods does not~~  
674 ~~disqualify an agency from receiving tax increment.]~~

675 ~~[(ii) Incidental or subordinate development of retail sales of goods includes the~~  
676 ~~development of retail sales of goods resulting from the installation and construction of any~~  
677 ~~building, facility, structure, or other improvement of a publicly or privately owned convention~~  
678 ~~center or sports complex, including parking and infrastructure improvements related to the~~

679 ~~convention center or sports complex.]~~

680 (2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting from  
681 an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves  
682 the project area budget unless, at the time the taxing entity committee approves the project area  
683 budget, the taxing entity committee approves payment of those increased taxes to the agency.

684 (b) If the taxing entity committee does not approve of payment of the increased taxes to  
685 the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes  
686 attributable to the tax rate increase in the same manner as other property taxes.

687 (3) Notwithstanding any other provision of this part, tax increment paid to an agency  
688 from a redevelopment project area after May 1, 2005, may be used only for the purpose of  
689 eliminating blight within that project area, unless and to the extent that the tax increment has  
690 been pledged to pay for bonds issued by the agency or to support other contractual obligations  
691 of the agency.

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**Legislative Review Note**  
as of 2-4-05 11:42 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0184**

**Redevelopment Agency Amendments**

*17-Feb-05*

*10:53 AM*

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**State Impact**

Passage of this bill could enhance local revenues over time. There is also the potential that the supply of redevelopment properties will decrease over time. Currently about \$74,000,000 is identified as tax increment for Redevelopment Agencies.

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**Individual and Business Impact**

No significant fiscal impact.

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**Office of the Legislative Fiscal Analyst**