LEGISLATIVE GENERAL COUNSEL
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**S.B. 245**

# REDEVELOPMENT AGENCY AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Rebecca D. Lockhart

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to redevelopment agencies.

**Highlighted Provisions:**

This bill:

- adds a definition of "inactive industrial site";
- modifies requirements applicable to a project area plan;
- modifies a provision imposing a size restriction on project areas to make an exception for areas that include an inactive industrial site;
- excludes inactive industrial sites from the calculation of combined incremental value for purposes of a provision prohibiting the adoption of a project area plan if a limit on combined incremental value is exceeded;
- makes the presence of an inactive industrial site in a project area an alternative to finding blight for purposes of a redevelopment project; and
- makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

Ŝ→ **~~[None]~~ This bill coordinates with S.B. 196, Revisions to Redevelopment Agency Provisions, by merging the amendments.** ←Ŝ

**Utah Code Sections Affected:**

AMENDS:

**17B-4-102**, as last amended by Chapter 292, Laws of Utah 2005
**17B-4-403**, as last amended by Chapter 292, Laws of Utah 2005
**17B-4-404**, as last amended by Chapter 256, Laws of Utah 2003
**17B-4-407**, as last amended by Chapter 292, Laws of Utah 2005
**17B-4-503**, as last amended by Chapter 165, Laws of Utah 2004
**17B-4-602**, as last amended by Chapter 292, Laws of Utah 2005
**17B-4-604**, as last amended by Chapter 292, Laws of Utah 2005

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*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(1)(c) 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) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres; **Ŝ→ [~~and~~] ←Ŝ**

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility **Ŝ→ ; and**

**(iii) requires remediation because of the presence of hazardous or solid waste as defined in Subsection 17B-4-604(1)(a)(iii)(I) ←Ŝ** .

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (13)(a).

[~~(13)~~] (14) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

[~~(14)~~] (15) "Plan hearing" means the public hearing on a draft project area plan required under Subsection 17B-4-402(1)(e).

[~~(15)~~] (16) "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.

[~~(16)~~] (17) "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.

[~~(17)~~] (18) "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.

[~~(18)~~] (19) "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.

[~~(19)~~] (20) "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.

[~~(20)~~] (21) "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.

[~~(21)~~] (22) "Property tax" includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

[~~(22)~~] (23) "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.

[~~(23)~~] (24) "Public input hearing" means the public hearing required under Subsection 17B-4-402(1)(h)(ii) regarding a proposed redevelopment project.

[~~(24)~~] (25) "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.

[~~(25)~~] (26) "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.

[~~(26)~~] (27) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive

Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection [~~(26)~~] (27)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

[~~(27)~~] (28) "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.

[~~(28)~~] (29) "Survey area resolution" means a resolution adopted by the agency board under Subsection 17B-4-401(1)(a) designating a survey area.

[~~(29)~~] (30) (a) "Tax increment" means, except as provided in Subsection [~~(29)~~] (30)(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.

[~~(30)~~] (31) "Taxing entity" means a public entity that levies a tax on property within a project area or proposed project area.

[~~(31)~~] (32) "Taxing entity committee" means a committee representing the interests of taxing entities, created as provided in Section 17B-4-1002.

Section 2. 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(1)(d)(ii), describe how the redevelopment will reduce or eliminate blight in the 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 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:

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

(B) the project area is a superfund site or an inactive industrial site;

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

(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) 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

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

(2) Each analysis under Subsection (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 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 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 economic development or education housing development, including:

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

(ii) 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 3. Section **17B-4-404** is amended to read:

**17B-4-404. Limit on size of project area in certain project area plans.**

A project area under a project area plan that provides for tax increment funds to be paid to the agency may not exceed 100 acres of private real property unless:

(1) the agency obtains the consent of the taxing entity committee;

(2) the project area plan was adopted on or before April 1, 1983; or

(3) the project area is a superfund site or an inactive industrial site.

Section 4. 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; and

(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)~~](s) 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) 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, if the project area plan may result in the temporary or permanent displacement of any residential occupants in the project area:

(A) the agency has a feasible method or plan for the relocation of families and persons displaced from the project area;

(B) comparable dwellings exist or will be provided to the families and persons displaced by the project area plan; and

(C) 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 5. Section **17B-4-503** is amended to read:

**17B-4-503. Combined incremental value -- Restriction against adopting project area budget -- Taxing entity committee may waive restriction.**

(1) For purposes of this section:

(a) "Adjusted tax increment" means:

(i) for tax increment under a pre-July 1, 1993 project area plan, tax increment under Section 17B-4-1003, excluding tax increment under Subsection 17B-4-1003(3); and

(ii) for tax increment under a post-June 30, 1993 project area plan, tax increment under Section 17B-4-1004, excluding tax increment under Subsection 17B-4-1004(3).

(b) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation [~~project area~~] or inactive industrial site, within the agency's boundaries under adopted project area plans and adopted project area budgets at the time that a project area budget for a new project area is being considered.

(c) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the percentage of adjusted tax increment from that project area that is paid to the agency.

(d) "Marginal value" means the difference between actual taxable value and base taxable value.

(e) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(f) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(2) (a) Except as provided in Subsection (2)(b), an agency may not adopt a project area budget if, at the time the project area budget is being considered, the combined incremental value for the agency exceeds 10% of the total taxable value of property within the agency's boundaries in the year that the project area budget is being considered.

(b) A taxing entity committee may waive the restrictions imposed by Subsection (2)(a).

Section 6. Section **17B-4-602** is amended to read:

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

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

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

(i) whether the conditions described in Subsections 17B-4-604(1)(a)(i) and (ii) exist in

part or all of the survey area;

(ii) whether the factors listed in Subsection 17B-4-604(1)(a)(iii) are present in the survey area; and

(iii) whether the survey area contains a superfund site or an inactive industrial site;

(b) include a written report setting forth:

(i) the conclusions reached; and

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

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

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

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

Section 7. Section **17B-4-604** is amended to read:

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

(1) An agency board may not make a finding of blight in a resolution under Section 17B-4-601 unless the board finds that the redevelopment project area:

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

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

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

(A) defective character of physical construction;

(B) high density of population or overcrowding;

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

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

(E) economic deterioration or continued disuse;

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

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

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

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

(b) [~~is~~] includes some or all of a superfund site or an inactive industrial site.

(2) (a) For purposes of Subsection (1), if a developer involved in the redevelopment project causes a condition listed in Subsection (1)(a)(iii) within the project area, the condition caused by the developer may not be used in the determination of blight.

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

**Ŝ→ Section 8. Coordinating S.B. 245 with S.B. 196 -- Merging substantive amendments.**

**If this S.B. 245 and S.B. 196, Revisions to Redevelopment Agency Provisions, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, merge the amendments to Subsection 17B-4-503(1)(b) in this S.B. 245 into Subsection 17C-1-102(13), as renumbered and amended in S.B. 196, so that Subsection 17C-1-102(13) reads as follows:**

**"(13) "Combined incremental value" means the combined total of all incremental values from all urban renewal project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under adopted project area plans and adopted project area budgets at the time that a project area budget for a new urban renewal project area is being considered.". ←Ŝ**

**Legislative Review Note**
**as of 2-8-06 5:20 PM**

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**

### State Impact

Passage of this bill would have no impact on state revenues.

### Individual and Business Impact

No fiscal impact.

**Office of the Legislative Fiscal Analyst**