

REDEVELOPMENT AGENCY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill amends provisions related to a community development and renewal agency.

Highlighted Provisions:

This bill:

- ▶ authorizes a taxing entity committee to approve exceptions to the requirement that a project area budget include a maximum cumulative amount of tax increment;
- ▶ amends tax increment provisions applicable to a pre-July 1, 1993, project area plan;
- ▶ enacts language prohibiting certain entities from recovering increased taxes paid to an agency in certain circumstances;
- ▶ requires that certain urban renewal project budgets specify the maximum cumulative dollar amount of tax increment that the agency may receive;
- ▶ requires that certain economic development project budgets specify the maximum cumulative dollar amount of tax increment that the agency may receive; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-402, as last amended by Laws of Utah 2012, Chapter 235

17C-1-403, as renumbered and amended by Laws of Utah 2006, Chapter 359

30 17C-1-407, as last amended by Laws of Utah 2009, Chapter 387

31 17C-2-201, as last amended by Laws of Utah 2010, Chapter 279

32 17C-3-201, as last amended by Laws of Utah 2010, Chapter 279

33

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

35 Section 1. Section 17C-1-402 is amended to read:

36 **17C-1-402. Taxing entity committee.**

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

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

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

42 (B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives
43 appointed by resolution of the legislative body of the county in which the agency is located; or

44 (II) in a county of the first class, one representative appointed by the county executive
45 and one representative appointed by the legislative body of the county in which the agency is
46 located;

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

49 (D) one representative appointed by the State Board of Education; and

50 (E) one representative selected by majority vote of the legislative bodies or governing
51 boards of all other taxing entities that levy a tax on property within the agency's boundaries, to
52 represent the interests of those taxing entities on the taxing entity committee.

53 (ii) (A) If the agency boundaries include only one school district, that school district
54 shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

55 (B) If the agency boundaries include more than one school district, those school
56 districts shall jointly appoint the two school district representatives under Subsection
57 (2)(a)(i)(A).

58 (b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be
59 appointed within 30 days after the agency provides notice of the creation of the taxing entity
60 committee.

61 (ii) If a representative is not appointed within the time required under Subsection
62 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the
63 place of the missing representative until that representative is appointed.

64 (c) (i) A taxing entity committee representative may be appointed for a set term or
65 period of time, as determined by the appointing authority under Subsection (2)(a)(i).

66 (ii) Each taxing entity committee representative shall serve until a successor is
67 appointed and qualified.

68 (d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether
69 an initial appointment or an appointment to replace an already serving representative, the
70 appointing authority shall:

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

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

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

78 (3) At its first meeting, a taxing entity committee shall adopt an organizing resolution:

79 (a) designating a chair and a secretary of the committee; and

80 (b) if the committee considers it appropriate, governing the use of electronic meetings
81 under Section 52-4-207.

82 (4) (a) A taxing entity committee represents all taxing entities regarding:

83 (i) an urban renewal project area; or

84 (ii) an economic development project area.

85 (b) A taxing entity committee may:

- 86 (i) cast votes that will be binding on all taxing entities;
- 87 (ii) negotiate with the agency concerning a draft project area plan;
- 88 (iii) approve or disapprove:
 - 89 (A) an urban renewal project area budget as provided in Section 17C-2-204; or
 - 90 (B) an economic development project area budget as provided in Section 17C-3-203;
- 91 (iv) approve or disapprove amendments to a project area budget as provided in:
 - 92 (A) Section 17C-2-206 for an urban renewal project area budget; or
 - 93 (B) Section 17C-3-205 for an economic development project area budget;
- 94 (v) approve exceptions to the limits on the value and size of a project area imposed
- 95 under this title;
- 96 (vi) approve:
 - 97 (A) exceptions to the percentage of tax increment [and] to be paid to the agency;
 - 98 (B) the period of time that tax increment is to be paid to the agency [as provided in this
 - 99 title]; and
 - 100 (C) exceptions to the requirement for an urban renewal or economic development
 - 101 project area budget to include a maximum cumulative dollar amount of tax increment that the
 - 102 agency may receive;
- 103 (vii) approve the use of tax increment for publicly owned infrastructure and
- 104 improvements outside of an urban renewal or economic development project area that the
- 105 agency and community legislative body determine to be of benefit to the urban renewal or
- 106 economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);
- 107 (viii) waive the restrictions imposed by Subsection 17C-2-202(1);
- 108 (ix) subject to Subsection (4)(c), designate in an approved urban renewal or economic
- 109 development project area budget the base taxable value for that project area budget; and
- 110 (x) give other taxing entity committee approval or consent required or allowed under
- 111 this title.
- 112 (c) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix)
- 113 may not be a year that is earlier than the year during which the project area plan became

114 effective.

115 (5) A quorum of a taxing entity committee consists of:

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

117 (b) if the project area is not located within a city or town, four members.

118 (6) Taxing entity committee approval, consent, or other action requires:

119 (a) the affirmative vote of a majority of all members present at a taxing entity

120 committee meeting:

121 (i) at which a quorum is present; and

122 (ii) considering an action relating to a project area budget for, or approval of a finding

123 of blight within, a project area or proposed project area that contains:

124 (A) an inactive industrial site;

125 (B) an inactive airport site; or

126 (C) a closed military base; or

127 (b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of

128 two-thirds of all members present at a taxing entity committee meeting at which a quorum is

129 present.

130 (7) (a) An agency may call a meeting of the taxing entity committee by sending written

131 notice to the members of the taxing entity committee at least 10 days before the date of the

132 meeting.

133 (b) Each notice under Subsection (7)(a) shall be accompanied by:

134 (i) the proposed agenda for the taxing entity committee meeting; and

135 (ii) if not previously provided and if they exist and are to be considered at the meeting:

136 (A) the project area plan or proposed plan;

137 (B) the project area budget or proposed budget;

138 (C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);

139 (D) the blight study;

140 (E) the agency's resolution making a finding of blight under Subsection

141 17C-2-102(1)(a) (ii)(B); and

142 (F) other documents to be considered by the taxing entity committee at the meeting.

143 (c) (i) An agency may not schedule a taxing entity committee meeting to meet on a day
144 on which the Legislature is in session.

145 (ii) Notwithstanding Subsection (7)(c)(i), the taxing entity committee may, by
146 unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

147 (8) (a) A taxing entity committee may not vote on a proposed project area budget or
148 proposed amendment to a project area budget at the first meeting at which the proposed budget
149 or amendment is considered unless all members of the taxing entity committee present at the
150 meeting consent.

151 (b) A second taxing entity committee meeting to consider a project area budget or a
152 proposed amendment to a project area budget may not be held within 14 days after the first
153 meeting unless all members of the taxing entity committee present at the first meeting consent.

154 (9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall
155 meet at least annually during the time that the agency receives tax increment under an urban
156 renewal or economic development project area budget in order to review the status of the
157 project area.

158 (b) A taxing entity committee is not required under Subsection (9)(a) to meet if the
159 agency submits on or before November 1 of each year to the county auditor, the State Tax
160 Commission, the State Board of Education, and each taxing entity that levies a tax on property
161 from which the agency collects tax increment, a report containing the following:

162 (i) an assessment of growth of incremental values for each active project area,
163 including:

164 (A) the base year assessed value;

165 (B) the prior year's assessed value;

166 (C) the estimated current year assessed value for the project area; and

167 (D) a narrative description of the relative growth in assessed value within the project
168 area;

169 (ii) a description of the amount of tax increment received by the agency and passed

170 through to other taxing entities from each active project area, including:

171 (A) a comparison of the original forecasted amount of tax increment to actual receipts;

172 (B) a narrative discussion regarding the use of tax increment; and

173 (C) a description of the benefits derived by the taxing entities;

174 (iii) a description of activity within each active project area, including:

175 (A) a narrative of any significant development activity, including infrastructure

176 development, site development, and vertical construction within the project area; and

177 (B) a narrative discussion regarding the status of any agreements for development

178 within the project area;

179 (iv) a revised multi-year tax increment budget related to each active project area,

180 including:

181 (A) the prior year's tax increment receipts;

182 (B) the base year value and adjusted base year value, as applicable;

183 (C) the applicable tax rates within the project area; and

184 (D) a description of private and public investment within the project area;

185 (v) an estimate of the tax increment to be paid to the agency for the calendar years

186 ending December 31 and beginning the next January 1; and

187 (vi) any other project highlights included by the agency.

188 (10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and

189 Public Meetings Act.

190 (11) Each time a school district representative or a representative of the State Board of

191 Education votes as a member of a taxing entity committee to allow an agency to be paid tax

192 increment or to increase the amount or length of time that an agency may be paid tax

193 increment, that representative shall, within 45 days after the vote, provide to the

194 representative's respective school board an explanation in writing of the representative's vote

195 and the reasons for the vote.

196 (12) (a) The auditor of each county in which the agency is located shall provide a

197 written report to the taxing entity committee stating, with respect to property within each urban

198 renewal and economic development project area:

199 (i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408;

200 and

201 (ii) the assessed value.

202 (b) With respect to the information required under Subsection (12)(a), the auditor shall
203 provide:

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

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

209 (c) The auditor of the county in which the agency is located shall provide a report
210 under this Subsection (12):

211 (i) at least annually; and

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

216 (13) This section does not apply to a community development project area plan.

217 (14) A taxing entity committee resolution, whether adopted before, on, or after May 10,
218 2011, approving a blight finding, approving a project area budget, or approving an amendment
219 to a project area budget:

220 (a) is final; and

221 (b) is not subject to repeal, amendment, or reconsideration unless the agency first
222 consents by resolution to the proposed repeal, amendment, or reconsideration.

223 Section 2. Section **17C-1-403** is amended to read:

224 **17C-1-403. Tax increment under a pre-July 1, 1993, project area plan.**

225 (1) [~~This~~] Notwithstanding any other provision of law, this section applies retroactively

226 to tax increment under [a] all pre-July 1, 1993, project area [~~plan only~~] plans, regardless of
227 when the applicable project area was created or the applicable project area plan was adopted.

228 (2) (a) Beginning with the first tax year after April 1, 1983 for which an agency accepts
229 tax increment, an agency [~~may~~] is entitled to be paid:

230 (i) (A) for the first through the fifth tax years, 100% of tax increment;

231 (B) for the sixth through the tenth tax years, 80% of tax increment;

232 (C) for the eleventh through the fifteenth tax years, 75% of tax increment;

233 (D) for the sixteenth through the twentieth tax years, 70% of tax increment; and

234 (E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or

235 (ii) for an agency that has caused a taxing entity committee to be created under
236 Subsection 17C-1-402(1), any percentage of tax increment up to 100% and for any length of
237 time that the taxing entity committee approves.

238 (b) Notwithstanding any other provision of this section:

239 (i) an agency [~~may~~] is entitled to be paid 100% of tax increment from a project area for
240 32 years after April 1, 1983 to pay principal and interest on agency indebtedness incurred
241 before April 1, 1983, even though the size of the project area from which tax increment is paid
242 to the agency exceeds 100 acres of privately owned property under a project area plan adopted
243 on or before April 1, 1983; and

244 (ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983
245 may be refinanced and paid from 100% of tax increment if the principal amount of the debt is
246 not increased in the refinancing.

247 (3) (a) For purposes of this Subsection (3), "additional tax increment" means the
248 difference between 100% of tax increment for a tax year and the amount of tax increment an
249 agency is paid for that tax year under the percentages and time periods specified in Subsection
250 (2)(a).

251 (b) Notwithstanding the tax increment percentages and time periods in Subsection
252 (2)(a), an agency [~~may~~] is entitled to be paid additional tax increment for a period ending 32
253 years after the first tax year after April 1, 1983, for which the agency receives tax increment

254 from the project area if:

255 (i) (A) the additional tax increment is used solely to pay all or part of the value of the
256 land for and the cost of the installation and construction of a publicly or privately owned
257 convention center or sports complex or any building, facility, structure, or other improvement
258 related to the convention center or sports complex, including parking and infrastructure
259 improvements;

260 (B) construction of the convention center or sports complex or related building,
261 facility, structure, or other improvement is commenced on or before June 30, 2002;

262 (C) the additional tax increment is pledged to pay all or part of the value of the land for
263 and the cost of the installation and construction of the convention center or sports complex or
264 related building, facility, structure, or other improvement; and

265 (D) the agency board and the community legislative body have determined by
266 resolution that the convention center or sports complex is:

267 (I) within and a benefit to a project area;

268 (II) not within but still a benefit to a project area; or

269 (III) within a project area in which substantially all of the land is publicly owned and a
270 benefit to the community; or

271 (ii) (A) the additional tax increment is used to pay some or all of the cost of the land
272 for and installation and construction of a recreational facility, as defined in Section 59-12-702,
273 or a cultural facility, including parking and infrastructure improvements related to the
274 recreational or cultural facility, whether or not the facility is located within a project area;

275 (B) construction of the recreational or cultural facility is commenced on or before
276 December 31, 2005; and

277 (C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part
278 of the cost of the land for and the installation and construction of the recreational or cultural
279 facility, including parking and infrastructure improvements related to the recreational or
280 cultural facility.

281 (c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without its

282 consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would
283 have been paid without that subsection.

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

286 Section 3. Section **17C-1-407** is amended to read:

287 **17C-1-407. Limitations on tax increment.**

288 (1) (a) If the development of retail sales of goods is the primary objective of an urban
289 renewal project area, tax increment from the urban renewal project area may not be paid to or
290 used by an agency unless a finding of blight is made under Chapter 2, Part 3, Blight
291 Determination in Urban Renewal Project Areas.

292 (b) Development of retail sales of goods does not disqualify an agency from receiving
293 tax increment.

294 (c) After July 1, 2005, an agency may not be paid or use tax increment generated from
295 the value of property within an economic development project area that is attributable to the
296 development of retail sales of goods, unless the tax increment was previously pledged to pay
297 for bonds or other contractual obligations of the agency.

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

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

305 (c) Notwithstanding any other provision of this section, if, prior to tax year 2013,
306 increased taxes are paid to an agency without the approval of the taxing entity committee, and
307 notwithstanding the law at the time that the tax was collected or increased:

308 (i) the State Tax Commission, the county as the collector of the taxes, a taxing entity,
309 or any other person or entity may not recover, directly or indirectly, the increased taxes from

310 the agency by adjustment of a tax rate used to calculate tax increment or otherwise;

311 (ii) the county is not liable to a taxing entity or any other person or entity for the
 312 increased taxes that were paid to the agency; and

313 (iii) tax increment, including the increased taxes, shall continue to be paid to the
 314 agency subject to the same number of tax years, percentage of tax increment, and cumulative
 315 dollar amount of tax increment as approved in the project area budget and previously paid to
 316 the agency.

317 (3) Except as the taxing entity committee otherwise agrees, an agency may not receive
 318 tax increment under an urban renewal or economic development project area budget adopted
 319 on or after March 30, 2009:

320 (a) that exceeds the percentage of tax increment or cumulative dollar amount of tax
 321 increment specified in the project area budget; or

322 (b) for more tax years than specified in the project area budget.

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

324 **17C-2-201. Project area budget -- Requirements for adopting -- Contesting the**
 325 **budget or procedure -- Time limit.**

326 (1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 urban
 327 renewal project area plan with tax increment, the agency shall, subject to Section 17C-2-202,
 328 adopt a project area budget as provided in this part.

329 (b) An urban renewal project area budget adopted on or after March 30, 2009 shall
 330 specify:

331 (i) for a project area budget adopted on or after March 30, 2009:

332 [(i)] (A) the number of tax years for which the agency will be allowed to receive tax
 333 increment from the project area; and

334 [(i)] (B) the percentage of tax increment [~~or maximum cumulative dollar amount of~~
 335 tax increment] the agency is entitled to receive from the project area under the project area
 336 budget[-]; and

337 (ii) for a project area budget adopted on or after March 30, 2013, unless approval is

338 obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of
339 tax increment that the agency may receive from the project area under the project area budget.

340 (2) To adopt an urban renewal project area budget, the agency shall:

341 (a) prepare a draft of a project area budget;

342 (b) make a copy of the draft project area budget available to the public at the agency's
343 offices during normal business hours;

344 (c) provide notice of the budget hearing as required by Part 5, Urban Renewal Notice
345 Requirements;

346 (d) hold a public hearing on the draft project area budget and, at that public hearing,
347 allow public comment on:

348 (i) the draft project area budget; and

349 (ii) whether the draft project area budget should be revised, adopted, or rejected;

350 (e) (i) if required under Subsection 17C-2-204(1), obtain the approval of the taxing
351 entity committee on the draft project area budget or a revised version of the draft project area
352 budget; or

353 (ii) if applicable, comply with the requirements of Subsection 17C-2-204(2);

354 (f) if approval of the taxing entity committee is required under Subsection (2)(e)(i),
355 obtain a written certification, signed by an attorney licensed to practice law in this state, stating
356 that the taxing entity committee followed the appropriate procedures to approve the project
357 area budget; and

358 (g) after the budget hearing, hold a board meeting in the same meeting as the public
359 hearing or in a subsequent meeting to:

360 (i) consider comments made and information presented at the public hearing relating to
361 the draft project area budget; and

362 (ii) adopt by resolution the draft project area budget, with any revisions, as the project
363 area budget.

364 (3) (a) For a period of 30 days after the agency's adoption of the project area budget
365 under Subsection (2)(g), any person in interest may contest the project area budget or the

366 procedure used to adopt the project area budget if the budget or procedure fails to comply with
367 applicable statutory requirements.

368 (b) After the 30-day period under Subsection (3)(a) expires, a person, for any cause,
369 may not contest:

370 (i) the project area budget or procedure used by either the taxing entity committee or
371 the agency to approve and adopt the project area budget;

372 (ii) a payment to the agency under the project area budget; or

373 (iii) the agency's use of tax increment under the project area budget.

374 Section 5. Section 17C-3-201 is amended to read:

375 **17C-3-201. Economic development project area budget -- Requirements for**
376 **adopting -- Contesting the budget or procedure -- Time limit.**

377 (1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993
378 economic development project area plan with tax increment, the agency shall, subject to
379 Section 17C-3-202, adopt a project area budget as provided in this part.

380 (b) An economic development project area budget adopted on or after March 30, 2009
381 shall specify:

382 (i) for a project area budget adopted on or after March 30, 2009:

383 [(+)] (A) the number of tax years for which the agency will be allowed to receive tax
384 increment from the project area; and

385 [(+)] (B) the percentage of tax increment [~~or maximum cumulative dollar amount of~~
386 ~~tax increment~~] the agency is entitled to receive from the project area under the project area
387 budget[-]; and

388 (ii) for a project area budget adopted on or after March 30, 2013, unless approval is
389 obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of
390 tax increment that the agency may receive from the project area under the project area budget.

391 (2) To adopt an economic development project area budget, the agency shall:

392 (a) prepare a draft of an economic development project area budget;

393 (b) make a copy of the draft project area budget available to the public at the agency's

394 offices during normal business hours;

395 (c) provide notice of the budget hearing as required by Part 4, Economic Development
396 Notice Requirements;

397 (d) hold a public hearing on the draft project area budget and, at that public hearing,
398 allow public comment on:

399 (i) the draft project area budget; and

400 (ii) whether the draft project area budget should be revised, adopted, or rejected;

401 (e) (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing
402 entity committee on the draft project area budget or a revised version of the draft project area
403 budget; or

404 (ii) if applicable, comply with the requirements of Subsection 17C-3-203(2);

405 (f) if approval of the taxing entity committee is required under Subsection (2)(e)(i),
406 obtain a written certification, signed by an attorney licensed to practice law in this state, stating
407 that the taxing entity committee followed the appropriate procedures to approve the project
408 area budget; and

409 (g) after the budget hearing, hold a board meeting in the same meeting as the public
410 hearing or in a subsequent meeting to:

411 (i) consider comments made and information presented at the public hearing relating to
412 the draft project area budget; and

413 (ii) adopt by resolution the draft project area budget, with any revisions, as the project
414 area budget.

415 (3) (a) For a period of 30 days after the agency's adoption of the project area budget
416 under Subsection (2)(g), any person in interest may contest the project area budget or the
417 procedure used to adopt the project area budget if the budget or procedure fails to comply with
418 applicable statutory requirements.

419 (b) After the 30-day period under Subsection (3)(a) expires, a person, for any cause,
420 may not contest:

421 (i) the project area budget or procedure used by either the taxing entity committee or

- 422 the agency to approve and adopt the project area budget;
- 423 (ii) a payment to the agency under the project area budget; or
- 424 (iii) the agency's use of tax increment under the project area budget.