

REDEVELOPMENT AGENCY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

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 require a project area budget to include a maximum cumulative dollar amount of tax increment;
- ▶ amends tax increment provisions applicable to a pre-July 1, 1993, project area plan;
- ▶ 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



28 17C-2-201, as last amended by Laws of Utah 2010, Chapter 279

29 17C-3-201, as last amended by Laws of Utah 2010, Chapter 279



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

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

33 **17C-1-402. Taxing entity committee.**

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

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

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

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

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

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

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

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

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

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

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

58 (ii) If a representative is not appointed within the time required under Subsection

59 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the
60 place of the missing representative until that representative is appointed.

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

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

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

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

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

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

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

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

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

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

80 (i) an urban renewal project area; or

81 (ii) an economic development project area.

82 (b) A taxing entity committee may:

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

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

85 (iii) approve or disapprove:

86 (A) an urban renewal project area budget as provided in Section 17C-2-204; or

87 (B) an economic development project area budget as provided in Section 17C-3-203;

88 (iv) approve or disapprove amendments to a project area budget as provided in:

89 (A) Section 17C-2-206 for an urban renewal project area budget; or

- 90 (B) Section 17C-3-205 for an economic development project area budget;
- 91 (v) approve exceptions to the limits on the value and size of a project area imposed
- 92 under this title;
- 93 (vi) approve;
- 94 (A) exceptions to the percentage of tax increment [~~and~~] to be paid to the agency;
- 95 (B) the period of time that tax increment is to be paid to the agency [~~as provided in this~~
- 96 ~~title~~]; and
- 97 (C) the requirement for an urban renewal or economic development project area budget
- 98 to include a maximum cumulative dollar amount of tax increment that the agency may receive;
- 99 (vii) approve the use of tax increment for publicly owned infrastructure and
- 100 improvements outside of an urban renewal or economic development project area that the
- 101 agency and community legislative body determine to be of benefit to the urban renewal or
- 102 economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);
- 103 (viii) waive the restrictions imposed by Subsection 17C-2-202(1);
- 104 (ix) subject to Subsection (4)(c), designate in an approved urban renewal or economic
- 105 development project area budget the base taxable value for that project area budget; and
- 106 (x) give other taxing entity committee approval or consent required or allowed under
- 107 this title.
- 108 (c) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix)
- 109 may not be a year that is earlier than the year during which the project area plan became
- 110 effective.
- 111 (5) A quorum of a taxing entity committee consists of:
- 112 (a) if the project area is located within a city or town, five members; or
- 113 (b) if the project area is not located within a city or town, four members.
- 114 (6) Taxing entity committee approval, consent, or other action requires:
- 115 (a) the affirmative vote of a majority of all members present at a taxing entity
- 116 committee meeting:
- 117 (i) at which a quorum is present; and
- 118 (ii) considering an action relating to a project area budget for, or approval of a finding
- 119 of blight within, a project area or proposed project area that contains:
- 120 (A) an inactive industrial site;

121 (B) an inactive airport site; or

122 (C) a closed military base; or

123 (b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of
124 two-thirds of all members present at a taxing entity committee meeting at which a quorum is
125 present.

126 (7) (a) An agency may call a meeting of the taxing entity committee by sending written
127 notice to the members of the taxing entity committee at least 10 days before the date of the
128 meeting.

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

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

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

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

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

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

135 (D) the blight study;

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

137 17C-2-102(1)(a) (ii)(B); and

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

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

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

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

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

150 (9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall
151 meet at least annually during the time that the agency receives tax increment under an urban

152 renewal or economic development project area budget in order to review the status of the
153 project area.

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

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

160 (A) the base year assessed value;

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

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

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

165 (ii) a description of the amount of tax increment received by the agency and passed
166 through to other taxing entities from each active project area, including:

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

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

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

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

171 (A) a narrative of any significant development activity, including infrastructure
172 development, site development, and vertical construction within the project area; and

173 (B) a narrative discussion regarding the status of any agreements for development
174 within the project area;

175 (iv) a revised multi-year tax increment budget related to each active project area,
176 including:

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

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

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

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

181 (v) an estimate of the tax increment to be paid to the agency for the calendar years
182 ending December 31 and beginning the next January 1; and

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

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

186 (11) Each time a school district representative or a representative of the State Board of
187 Education votes as a member of a taxing entity committee to allow an agency to be paid tax
188 increment or to increase the amount or length of time that an agency may be paid tax
189 increment, that representative shall, within 45 days after the vote, provide to the
190 representative's respective school board an explanation in writing of the representative's vote
191 and the reasons for the vote.

192 (12) (a) The auditor of each county in which the agency is located shall provide a
193 written report to the taxing entity committee stating, with respect to property within each urban
194 renewal and economic development project area:

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

197 (ii) the assessed value.

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

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

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

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

207 (i) at least annually; and

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

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

213 (14) A taxing entity committee resolution, whether adopted before, on, or after May 10,

214 2011, approving a blight finding, approving a project area budget, or approving an amendment
215 to a project area budget:

216 (a) is final; and

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

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

220 **17C-1-403. Tax increment under a pre-July 1, 1993, project area plan.**

221 (1) This section applies retroactively to tax increment under [a] all pre-July 1, 1993,
222 project area [~~plan only~~] plans.

223 (2) (a) Beginning with the first tax year after April 1, 1983 for which an agency accepts
224 tax increment, an agency may be paid:

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

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

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

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

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

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

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

234 (i) an agency may be paid 100% of tax increment from a project area for 32 years after
235 April 1, 1983 to pay principal and interest on agency indebtedness incurred before April 1,
236 1983, even though the size of the project area from which tax increment is paid to the agency
237 exceeds 100 acres of privately owned property under a project area plan adopted on or before
238 April 1, 1983; and

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

242 (3) (a) For purposes of this Subsection (3), "additional tax increment" means the
243 difference between 100% of tax increment for a tax year and the amount of tax increment an
244 agency is paid for that tax year under the percentages and time periods specified in Subsection

245 (2)(a).

246 (b) Notwithstanding the tax increment percentages and time periods in Subsection
247 (2)(a) or any other provision of law, an agency may be paid additional tax increment for a
248 period ending 32 years after the first tax year after April 1, 1983, for which the agency receives
249 tax increment from the project area, regardless of when the applicable project area was created
250 or the applicable project area plan or budget was adopted, if:

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

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

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

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

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

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

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

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

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

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

276 cultural facility.

277 (c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without its
278 consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would
279 have been paid without that subsection.

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

282 Section 3. Section 17C-2-201 is amended to read:

283 **17C-2-201. Project area budget -- Requirements for adopting -- Contesting the**
284 **budget or procedure -- Time limit.**

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

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

290 (i) the number of tax years for which the agency will be allowed to receive tax
291 increment from the project area; ~~and~~

292 (ii) the percentage of tax increment ~~[or maximum cumulative dollar amount of tax~~
293 ~~increment]~~ the agency is entitled to receive from the project area under the project area
294 budget~~[-]; and~~

295 (iii) subject to Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar
296 amount of tax increment that the agency may receive from the project area under the project
297 area budget.

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

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

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

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

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

306 (i) the draft project area budget; and

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

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

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

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

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

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

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

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

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

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

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

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

332 Section 4. Section **17C-3-201** is amended to read:

333 **17C-3-201. Economic development project area budget -- Requirements for**
334 **adopting -- Contesting the budget or procedure -- Time limit.**

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

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

340 (i) the number of tax years for which the agency will be allowed to receive tax
341 increment from the project area; ~~and]~~

342 (ii) the percentage of tax increment ~~[or maximum cumulative dollar amount of tax~~
343 ~~increment]~~ the agency is entitled to receive from the project area under the project area
344 budget~~[-]; and~~

345 (iii) subject to Subsection 17C-1-402(4)(b)(iv)(C), the maximum cumulative dollar
346 amount of tax increment that the agency may receive from the project area under the project
347 area budget.

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

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

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

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

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

356 (i) the draft project area budget; and

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

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

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

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

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

368 (i) consider comments made and information presented at the public hearing relating to

369 the draft project area budget; and

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

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

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

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

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

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

Legislative Review Note
as of 2-15-13 9:18 AM

Office of Legislative Research and General Counsel