

## SB0211S01 compared with SB0211

~~text~~ shows text that was in SB0211 but was deleted in SB0211S01.

inserted text shows text that was not in SB0211 but was inserted into SB0211S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

### REDEVELOPMENT AGENCY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: \_\_\_\_\_

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#### 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~~ approve exceptions to the requirement that 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;
- ▶ 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;

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- ▶ 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) if the committee considers it appropriate, governing the use of electronic meetings

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under Section 52-4-207.

- (4) (a) A taxing entity committee represents all taxing entities regarding:
  - (i) an urban renewal project area; or
  - (ii) an economic development project area.
- (b) A taxing entity committee may:
  - (i) cast votes that will be binding on all taxing entities;
  - (ii) negotiate with the agency concerning a draft project area plan;
  - (iii) approve or disapprove:
    - (A) an urban renewal project area budget as provided in Section 17C-2-204; or
    - (B) an economic development project area budget as provided in Section 17C-3-203;
  - (iv) approve or disapprove amendments to a project area budget as provided in:
    - (A) Section 17C-2-206 for an urban renewal project area budget; or
    - (B) Section 17C-3-205 for an economic development project area budget;
  - (v) approve exceptions to the limits on the value and size of a project area imposed

under this title;

- (vi) approve:
  - (A) exceptions to the percentage of tax increment [and] to be paid to the agency;
  - (B) the period of time that tax increment is to be paid to the agency [as provided in this

title]; and

(C) exceptions to the requirement for an urban renewal or economic development project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;

(vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of an urban renewal or economic development project area that the agency and community legislative body determine to be of benefit to the urban renewal or economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);

(viii) waive the restrictions imposed by Subsection 17C-2-202(1);

(ix) subject to Subsection (4)(c), designate in an approved urban renewal or economic development project area budget the base taxable value for that project area budget; and

(x) give other taxing entity committee approval or consent required or allowed under this title.

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(c) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix) may not be a year that is earlier than the year during which the project area plan became effective.

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

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

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

(a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:

(i) at which a quorum is present; and

(ii) considering an action relating to a project area budget for, or approval of a finding of blight within, a project area or proposed project area that contains:

- (A) an inactive industrial site;
- (B) an inactive airport site; or
- (C) a closed military base; or

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

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

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

- (i) the proposed agenda for the taxing entity committee meeting; and
- (ii) if not previously provided and if they exist and are to be considered at the meeting:

- (A) the project area plan or proposed plan;
- (B) the project area budget or proposed budget;
- (C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);
- (D) the blight study;

(E) the agency's resolution making a finding of blight under Subsection 17C-2-102(1)(a) (ii)(B); and

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

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

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

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

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

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

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

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

(A) the base year assessed value;

(B) the prior year's assessed value;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

(ii) the assessed value.

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

(i) actual amounts for each year from the adoption of the project area plan to the time

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of the report; and

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

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

(i) at least annually; and

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

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

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

(a) is final; and

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

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

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

(1) [This] Notwithstanding any other provision of law, this section applies retroactively to tax increment under [a] all pre-July 1, 1993, project area [plan-only] plans, regardless of when the applicable project area was created or the applicable project area plan was adopted.

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

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

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

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

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

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

(ii) for an agency that has caused a taxing entity committee to be created under



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Subsection 17C-1-402(1), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.

(b) Notwithstanding any other provision of this section:

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

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

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

(b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a) ~~{ or any other provision of law }~~, an agency ~~[may]~~ is entitled to be paid additional tax increment for a period ending 32 years after the first tax year after April 1, 1983, for which the agency receives tax increment from the project area ~~{, regardless of when the applicable project area was created or the applicable project area plan or budget was adopted. }~~

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

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

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

(D) the agency board and the community legislative body have determined by

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resolution that the convention center or sports complex is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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for bonds or other contractual obligations of the agency.

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

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

(c) Notwithstanding any other provision of law, if increased taxes are paid to an agency without the approval of the taxing entity committee as required by Subsection (2)(a), the increased taxes may not be recovered from the agency by the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity.

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

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

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

Section ~~3~~4. Section 17C-2-201 is amended to read:

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

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

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

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

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

[(+)] (B) the percentage of tax increment [~~or maximum cumulative dollar amount of~~

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~~tax increment]~~ the agency is entitled to receive from the project area under the project area budget[-]; and

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

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

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

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

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

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

(i) the draft project area budget; and

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

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

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

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

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

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

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

(3) (a) For a period of 30 days after the agency's adoption of the project area budget

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under Subsection (2)(g), any person in interest may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

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

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

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

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

Section ~~44~~5. Section **17C-3-201** is amended to read:

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

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

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

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

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

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

(~~[(iii)] subject to~~ i) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(~~[(iv)]~~vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.

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

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

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

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

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

(i) the draft project area budget; and

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

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

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

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

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

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

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

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

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

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

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

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

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**Legislative Review Note**

~~as of 2-15-13 9:18 AM~~

~~Office of Legislative Research and General Counsel}~~