

2nd Sub. S.B. 72

PRISON RELOCATION AND DEVELOPMENT AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 6

MARCH 4, 2013 9:47 AM

Senator **Mark B. Madsen** proposes the following amendments:

1. Page 1, Line 24 through Page 2, Line 27:

24 development project; and
25 {→provides for a property tax increment to be paid to the authority to be applied to
26 specified costs;
27 →→→→→ modifies the distribution of some local option sales tax revenues; and }

2. Page 2, Line 36:

36 {~~59-12-205, as last amended by Laws of Utah 2012, Chapter 9~~}

3. Page 2, Line 49:

49 {~~63H-7-205, Utah Code Annotated 1953~~}

4. Page 3, Lines 63 through 64:

63 {~~63H-7-505, Utah Code Annotated 1953~~
64 →→→→→ ~~63H-7-506, Utah Code Annotated 1953~~}

5. Page 3, Line 77 through Page 7, Line 187:

77 { ~~Section 1. Section 59-12-205 is amended to read:~~
78 →→→→→ ~~59-12-205. Ordinances to conform with statutory amendments -- Distribution of~~
79 ~~tax revenues -- Determination of population.~~
80 →→→→→ ~~(1) A county, city, or town, in order to maintain in effect sales and use tax ordinances~~
81 ~~adopted pursuant to Section 59-12-204, shall, within 30 days of an amendment to an applicable~~
82 ~~provision of Part 1, Tax Collection, adopt amendments to the county's, city's, or town's sales~~
83 ~~and use tax ordinances as required to conform to the amendments to Part 1, Tax Collection.~~
84 →→→→→ ~~(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):~~
85 →→→→→ ~~(a) 50% of each dollar collected from the sales and use tax authorized by this part shall~~
86 ~~be distributed to each county, city, and town on the basis of the percentage that the population~~
87 ~~of the county, city, or town bears to the total population of all counties, cities, and towns in the~~
88 ~~state; and~~
89 →→→→→ ~~(b) (i) except as provided in [Subsection] Subsections (2)(b)(ii) and (iii), 50% of each~~
90 ~~dollar collected from the sales and use tax authorized by this part shall be distributed to each~~

91 county, city, and town on the basis of the location of the transaction as determined under
92 Sections 59-12-211 through 59-12-215; [and]
93 ——— (ii) 50% of each dollar collected from the sales and use tax authorized by this part
94 within a project area described in a project area plan adopted by the military installation
95 development authority under Title 63H, Chapter 1, Military Installation Development
96 Authority Act, shall be distributed to the military installation development authority created in
97 Section 63H-1-201[.]; and
98 ——— (iii) beginning the first day of the calendar quarter that is at least 90 days after the
99 Prison Land Management Authority, created in Section 63H-7-201, gives notice to the tax
100 commission of the Authority's intent to receive sales and use tax revenue under this Subsection
101 (2)(b)(iii), 50% of each dollar collected from the sales and use tax authorized by this part on
102 former prison land, as defined in Section ~~§~~ [63H-67-102] 63H-7-102 ~~←~~ ~~§~~ , shall be distributed to
102a the Prison Land
103 Management Authority.
104 ——— (3) (a) Beginning on July 1, 2011, and ending on June 30, 2016, the commission shall
105 each year distribute to a county, city, or town the distribution required by this Subsection (3) if:
106 ——— (i) the county, city, or town is a:
107 ——— (A) county of the third, fourth, fifth, or sixth class;
108 ——— (B) city of the fifth class; or
109 ——— (C) town;
110 ——— (ii) the county, city, or town received a distribution under this section for the calendar
111 year beginning on January 1, 2008, that was less than the distribution under this section that the
112 county, city, or town received for the calendar year beginning on January 1, 2007;
113 ——— (iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located
114 within the unincorporated area of the county for one or more days during the calendar year
115 beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121,
116 Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North
117 American Industry Classification System of the federal Executive Office of the President,
118 Office of Management and Budget; or
119 ——— (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
120 (3)(a)(i)(C), the city or town had located within the city or town for one or more days during
121 the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry
122 Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the
123 2002 North American Industry Classification System of the federal Executive Office of the
124 President, Office of Management and Budget; and
125 ——— (iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment
126 described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for
127 one more days during the calendar year beginning on January 1, 2008, was not the holder of a
128 direct payment permit under Section 59-12-107.1; or
129 ——— (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection

130 ~~(3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a~~
131 ~~city or town for one or more days during the calendar year beginning on January 1, 2008, was~~
132 ~~not the holder of a direct payment permit under Section 59-12-107.1.~~
133 ~~—— (b) The commission shall make the distribution required by this Subsection (3) to a~~
134 ~~county, city, or town described in Subsection (3)(a):~~
135 ~~—— (i) from the distribution required by Subsection (2)(a); and~~
136 ~~—— (ii) before making any other distribution required by this section.~~
137 ~~—— (c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by~~
138 ~~multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.~~
139 ~~—— (ii) For purposes of Subsection (3)(c)(i):~~
140 ~~—— (A) the numerator of the fraction is the difference calculated by subtracting the~~
141 ~~distribution a county, city, or town described in Subsection (3)(a) received under this section~~
142 ~~for the calendar year beginning on January 1, 2008, from the distribution under this section that~~
143 ~~the county, city, or town received for the calendar year beginning on January 1, 2007; and~~
144 ~~—— (B) the denominator of the fraction is \$333,583.~~
145 ~~—— (d) A distribution required by this Subsection (3) is in addition to any other distribution~~
146 ~~required by this section.~~
147 ~~—— (4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year~~
148 ~~2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of~~
149 ~~the taxable sales within the boundaries of the county, city, or town.~~
150 ~~—— (b) The commission shall proportionally reduce monthly distributions to any county,~~
151 ~~city, or town that, but for the reduction, would receive a distribution in excess of 1% of the~~
152 ~~sales and use tax revenue collected within the boundaries of the county, city, or town.~~
153 ~~—— (5) (a) As used in this Subsection (5):~~
154 ~~—— (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or~~
155 ~~more in tax revenue distributions in accordance with Subsection (4) for each of the following~~
156 ~~fiscal years:~~
157 ~~—— (A) fiscal year 2002-03;~~
158 ~~—— (B) fiscal year 2003-04; and~~
159 ~~—— (C) fiscal year 2004-05.~~
160 ~~—— (ii) "Minimum tax revenue distribution" means the greater of:~~
161 ~~—— (A) the total amount of tax revenue distributions an eligible county, city, or town~~
162 ~~receives from a tax imposed in accordance with this part for fiscal year 2000-01; or~~
163 ~~—— (B) the total amount of tax revenue distributions an eligible county, city, or town~~
164 ~~receives from a tax imposed in accordance with this part for fiscal year 2004-05.~~
165 ~~—— (b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07~~
166 ~~and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax~~
167 ~~revenue distribution for a tax imposed in accordance with this part equal to the greater of:~~
168 ~~—— (A) the payment required by Subsection (2); or~~
169 ~~—— (B) the minimum tax revenue distribution.~~

170 ~~—— (ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible~~
171 ~~county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three~~
172 ~~consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following~~
173 ~~that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax~~
174 ~~revenue distribution equal to the payment required by Subsection (2).~~
175 ~~—— (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year~~
176 ~~2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution~~
177 ~~for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that~~
178 ~~eligible county, city, or town is less than or equal to the product of:~~
179 ~~—— (i) the minimum tax revenue distribution; and~~
180 ~~—— (ii) .90.~~
181 ~~—— (6) (a) Population figures for purposes of this section shall be based on the most recent~~
182 ~~official census or census estimate of the United States Census Bureau.~~
183 ~~—— (b) If a needed population estimate is not available from the United States Census~~
184 ~~Bureau, population figures shall be derived from the estimate from the Utah Population~~
185 ~~Estimates Committee created by executive order of the governor.~~
186 ~~—— (c) The population of a county for purposes of this section shall be determined only~~
187 ~~from the unincorporated area of the county. }~~

6. Page 7, Lines 198 through 201:

198 ~~{ (2) "Base taxable value" means, for former prison land that is exempt from property tax~~
199 ~~at the time the authority accepts a proposal for a former prison land development project, as~~
200 ~~provided in this chapter, a taxable value of zero. }~~
201 ~~{ (3) } (2) "Board" means the authority's governing body established under Section~~

7. Page 7, Line 203:

203 ~~{ (4) } (3) "Conceptual plan" means a plan that provides the conceptual framework for the~~

8. Page 7, Line 205:

205 ~~{ (5) } (4) "Division" means the Division of Facilities Construction and Management created~~

9. Page 7, Line 207:

207 ~~{ (6) } (5) "Former prison" means the state prison operating as of February 1, 2013 in Salt~~

10. Page 7, Line 209:

209 ~~{ (7) } (6) "Former prison land" means all the land owned or controlled by the state on which~~

11. Page 8, Line 213:

213 ~~{(8)}~~ (7) "Former prison land development project" means a project to develop the former

12. Page 8, Lines 217 through 219:

217 ~~{(9)}~~ (8) "Host city" means the city in which the former prison land is located.

218 ~~{(10)}~~ (9) "Host county" means the county in which the former prison land is located.

219 ~~{(11)}~~ (10) "Master development project" means a former prison land development project

13. Page 8, Lines 221 through 222:

221 ~~{(12)}~~ (11) "New prison" means a prison to be built to replace the former prison.

222 ~~{(13)}~~ (12) "New prison development project":

14. Page 8, Lines 226 through 227:

226 ~~{(14)}~~ (13) "New prison land" means land on which a new prison is or is projected to be built.

227 ~~{(15)}~~ (14) "Prison programming" means a policy, plan, or program that, if implemented by

15. Page 8, Lines 230 through 237:

230 ~~{(16) "Property tax" includes privilege tax and each levy on an ad valorem basis on~~
231 ~~tangible or intangible personal or real property.~~

232 ~~(17) "Public entity" means:~~

233 ~~(a) the state, including any department, division, agency, or other instrumentality of the~~
234 ~~state; or~~

235 ~~(b) a political subdivision of the state, including a county, city, town, school district,~~
236 ~~local district, special service district, or interlocal entity. }~~

237 ~~{(18)}~~ (15) "Publicly owned infrastructure and improvements" means water, sewer, storm

16. Page 9, Line 246:

246 ~~{(19)}~~ (16) "State ownership" means ownership by the state or any department, division, or

17. Page 9, Lines 248 through 255:

248 ~~{(20) "Taxable value" means the value of property as shown on the last equalized~~
249 ~~assessment roll as certified by the county assessor.~~

250 ~~(21) "Tax increment" means the difference between:~~

251 ~~(a) the amount of property tax revenues generated each tax year by all taxing entities~~
252 ~~from the former prison land, using the current assessed value of the property; and~~

253 ~~(b) the amount of property tax revenues that would be generated from that same land,~~
254 ~~using the base taxable value of the property.~~

255 ~~(22) "Taxing entity" means a public entity that levies a tax on former prison land. }~~

18. Page 10, Lines 280 through 281:

280 ~~{ (f) receive tax increment and other taxes and fees as provided in this chapter; }~~
281 ~~{ (g) }~~ (f) accept financial or other assistance from any public or private source for the

19. Page 10, Line 284:

284 ~~{ (h) }~~ (g) borrow money on a short-term basis, contract with, or accept financial or other

20. Page 10, Lines 287 through 290:

287 ~~{ (i) }~~ (h) hire employees, including;
288 ~~{ (A) }~~ (i) contract employees; and
289 ~~{ (B) }~~ (ii) a chief administrative officer;
290 ~~{ (j) }~~ (i) transact other business and exercise all other powers provided for in this chapter;

21. Page 10, Line 292:

292 ~~{ (k) }~~ (j) exercise powers and perform functions that the authority is authorized by statute to

22. Page 11, Line 315:

315 (1) The authority may use ~~{ tax increment and other }~~ funds available to the authority:

23. Page 11, Lines 319 through 320:

319 (c) to pay for all or part of the development of the former prison land ~~{ from which the~~
320 ~~tax increment funds or other funds were collected }~~ , including assisting the ongoing operation of

24. Page 11, Lines 323 through 324:

323 infrastructure and improvements on the former prison land ~~{ from which the tax increment funds~~
324 ~~were collected }~~ ;

25. Page 11, Line 335 through Page 12, Line 337:

335 ~~{ (3) For purposes of Subsection (1), the authority may use tax revenues received under~~
336 ~~Subsection 59-12-205(2)(b)(iii). }~~
337 ~~{ (4) }~~ (3) The determination of the authority board under Subsection (1)(e) regarding benefit

26. Page 12, Lines 339 through 360:

339 ~~{ (5) }~~ (4) The authority may give to another state or local government entity any of the funds
340 it receives, if the funds are used for a purpose listed in ~~{ Subsections }~~ Subsection (1) ~~{ through~~
 ~~(4) }~~ or (2) .

341 { ~~Section 7. Section 63H-7-204 is enacted to read:~~
342 ~~63H-7-204. Authority receipt and use of tax increment -- Distribution of tax~~
343 ~~increment.~~
344 ~~(1) (a) The authority may:~~
345 ~~(i) subject to Subsection (1)(b), receive up to 50% of tax increment for up to 25 years,~~
346 ~~as provided in this part; and~~
347 ~~(ii) use tax increment during and after the period described in Subsection (1)(a)(i);~~
348 ~~(b) With respect to a parcel located on former prison land, the 25-year period described~~
349 ~~in Subsection (1)(a)(i) begins on the day on which the authority receives the first tax increment~~
350 ~~from that parcel.~~
351 ~~(2) Improvements on a parcel on former prison land become subject to property tax on~~
352 ~~January 1 immediately following the day on which the authority issues a certificate of~~
353 ~~occupancy with respect to those improvements.~~
354 ~~(3) A county that collects property tax on former prison land shall pay and distribute to~~
355 ~~the authority the tax increment that the authority is entitled to collect under this title, in the~~
356 ~~manner and at the time provided in Section 59-2-1365.~~
357 ~~(4) The board shall determine by resolution when the entire former prison land or an~~
358 ~~individual parcel on former prison land is subject to tax increment. }~~
359 Section 8. Section 63H-7- {~~205~~} 204 is enacted to read:
360 63H-7- {~~205~~} 204 . Authority funds nonlapsing.

27. Page 20, Lines 586 through 588
Senate Committee Amendments
2-28-2013:

586 { ~~(b) tax increment;~~
587 ~~(c) sales tax revenue under Subsection 59-12-205(2)(b)(iii); }~~
588 { ~~(d)~~ } (c) savings realized from funds that had been intended for maintenance and upkeep of

28. Page 20, Line 591
Senate Committee Amendments
2-28-2013:

591 { ~~(e)~~ } (d) the amount of future construction costs anticipated to be spent for prison facilities

29. Page 20, Line 593
Senate Committee Amendments
2-28-2013:

593 { ~~(f)~~ } (e) reductions in future years' budgets of the Department of Corrections that equal the

30. Page 20, Lines 596 through 599

Senate Committee Amendments

2-28-2013:

596 ~~{(g)}~~ (f) proceeds from the issuance of bonds;
597 ~~{(h)}~~ (g) legislative appropriations;
598 ~~{(i)}~~ (h) financing provided by the developer; and
599 ~~{(j)}~~ (i) any other source of funds that the offeror proposes to be made available in order to

31. Page 21, Line 640 through Page 22, Line 646:

640 (6) ~~{(a)}~~ Within 30 days after adopting an annual budget, the authority board shall file a
641 copy of the annual budget with the auditor of the host county ~~{in which the authority is located}~~ , the
642 State Tax Commission, and the state auditor ~~{, the State Board of Education, and each taxing entity~~
643 that levies a tax on property from which the authority collects tax increment} .
644 ~~{(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the~~
645 ~~state as a taxing entity is met if the authority files a copy with the State Tax Commission and~~
646 ~~the state auditor.}~~

32. Page 22, Lines 655 through 669:

655 ~~{ Section 20. Section 63H-7-503 is enacted to read:~~
656 ~~63H-7-503. Authority report:~~
657 ~~(1)(a) On or before November 1 of each year, the authority shall prepare and file a~~
658 ~~report with the county auditor, the State Tax Commission, the State Board of Education, and~~
659 ~~each taxing entity that levies a tax on property from which the authority collects tax increment.~~
660 ~~(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a~~
661 ~~taxing entity is met if the authority files a copy with the State Tax Commission and the state~~
662 ~~auditor.~~
663 ~~(2) Each report under Subsection (1) shall contain:~~
664 ~~(a) an estimate of the tax increment to be paid to the authority for the calendar year~~
665 ~~ending December 31; and~~
666 ~~(b) an estimate of the tax increment to be paid to the authority for the calendar year~~
667 ~~beginning the next January 1.}~~
668 Section 21. Section 63H-7- ~~{504}~~ 503 is enacted to read:
669 63H-7- ~~{504}~~ 503 . Audit requirements.

33. Page 22, Line 673 through Page 23, Line 689:

673 ~~{ Section 22. Section 63H-7-505 is enacted to read:~~
674 ~~63H-7-505. Audit report:~~
675 ~~(1) The authority shall, within 180 days after the end of the authority's fiscal year, file a~~

676 copy of the audit report with the county auditor, the State Tax Commission, the State Board of
677 Education, and each taxing entity that levies a tax on property from which the authority collects
678 tax increment.

679 — (2) Each audit report under Subsection (1) shall include:

680 — (a) the tax increment collected by the authority for each project area;

681 — (b) the outstanding principal amount of bonds issued or other loans incurred to finance
682 the costs associated with the authority's project areas; and

683 — (c) the actual amount expended for:

684 — (i) acquisition of property;

685 — (ii) site improvements or site preparation costs;

686 — (iii) installation of public utilities or other public improvements; and

687 — (iv) administrative costs of the authority. }

688 Section 23. Section ~~63H-7- {506}~~ 504 is enacted to read:

689 ~~63H-7- {506}~~ 504 . Authority chief financial officer is a public treasurer -- Certain

34. Page 23, Lines 695 through 696:

695 (2) Notwithstanding Subsection 63E-2-110(2)(a), { tax increment funds, municipal

696 services revenue, and } appropriations that the authority receives from the state:

Renumber remaining sections accordingly.