

MILITARY INSTALLATION DEVELOPMENT AUTHORITY

AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies Title 19, Chapter 6, Part 5, Solid Waste Management Act, and Title 63H, Chapter 1, Military Installation Development Authority Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "solid waste management facility" to include an auxiliary energy facility that is connected to an existing resource recovery facility;
- ▶ repeals Section 19-6-504, which discusses certain requirements for a public entity that issues bonds to finance a solid waste management facility;
- ▶ defines the term "development" to include certain activities within a project area;
- ▶ modifies the definition of "property tax" to not include a privilege tax on a portion of a facility on military land leased back to the military under certain circumstances;
- ▶ describes certain exemptions from the Condominium Ownership Act;
- ▶ modifies the definition of "publicly owned infrastructure and improvements"; and
- ▶ provides that the issuance of a certificate of occupancy by the authority, or an entity designated by the authority, determines when improvements on a parcel within a project area become subject to property tax.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **19-6-502**, as last amended by Laws of Utah 2008, Chapters 89 and 360

33 **63H-1-102**, as last amended by Laws of Utah 2013, Chapter 362

34 **63H-1-202**, as last amended by Laws of Utah 2010, Chapter 9

35 **63H-1-501**, as last amended by Laws of Utah 2013, Chapter 362

36 REPEALS:

37 **19-6-504**, as renumbered and amended by Laws of Utah 1991, Chapter 112



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

40 Section 1. Section **19-6-502** is amended to read:

41 **19-6-502. Definitions.**

42 As used in this part:

43 (1) "Governing body" means the governing board, commission, or council of a public
44 entity.

45 (2) "Jurisdiction" means the area within the incorporated limits of:

46 (a) a municipality;

47 (b) a special service district;

48 (c) a municipal-type service district;

49 (d) a service area; or

50 (e) the territorial area of a county not lying within a municipality.

51 (3) "Long-term agreement" means an agreement or contract having a term of more than
52 five years but less than 50 years.

53 (4) "Municipal residential waste" means solid waste that is:

54 (a) discarded or rejected at a residence within the public entity's jurisdiction; and

55 (b) collected at or near the residence by:

56 (i) a public entity; or

57 (ii) a person with whom the public entity has as an agreement to provide solid waste

58 management.

59 (5) "Public entity" means:

60 (a) a county;

61 (b) a municipality;

62 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;

63 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

64 (e) a municipal-type service district created under Title 17, Chapter 34,

65 Municipal-Type Services to Unincorporated Areas.

66 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that
67 imposes a legal duty on a person.

68 (7) "Residence" means an improvement to real property used or occupied as a primary
69 or secondary detached single-family dwelling.

70 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of
71 usable material, energy, fuel, or heat from solid waste and the disposition of it.

72 (9) "Short-term agreement" means a contract or agreement having a term of five years
73 or less.

74 (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance
75 discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the
76 time of discard or rejection, including:

77 (i) garbage;

78 (ii) refuse;

79 (iii) industrial and commercial waste;

80 (iv) sludge from an air or water control facility;

81 (v) rubbish;

82 (vi) ash;

83 (vii) contained gaseous material;

84 (viii) incinerator residue;

85 (ix) demolition and construction debris;

86 (x) a discarded automobile; and

87 (xi) offal.

88 (b) "Solid waste" does not include sewage or another highly diluted water carried
89 material or substance and those in gaseous form.

90 (11) "Solid waste management" means the purposeful and systematic collection,
91 transportation, storage, processing, recovery, or disposal of solid waste.

92 (12) "Solid waste management facility" means a facility employed for solid waste
93 management, including:

94 (a) a transfer station;

95 (b) a transport system;

96 (c) a baling facility;

97 (d) a landfill; and

98 (e) a processing system, including:

99 (i) a resource recovery facility;

100 (ii) a facility for reducing solid waste volume;

101 (iii) a plant or facility for compacting, composting, or pyrolization of solid waste;

102 (iv) an incinerator;

103 (v) a solid waste disposal, reduction, or conversion facility; [~~and~~]

104 (vi) a facility for resource recovery of energy consisting of:

105 (A) a facility for the production, transmission, distribution, and sale of heat and steam;

106 (B) a facility for the generation and sale of electric energy to a public utility,

107 municipality, or other public entity that owns and operates an electric power system on March
108 15, 1982; and

109 (C) a facility for the generation, sale, and transmission of electric energy on an
110 emergency basis only to a military installation of the United States[-]; and

111 (vii) an auxiliary energy facility that is connected to a facility for resource recovery of
112 energy as described in Subsection (12)(e)(vi), that:

113 (A) is fueled by natural gas, landfill gas, or both;

114 (B) consists of a facility for the production, transmission, distribution, and sale of
115 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
116 military installation of the United States; and

117 (C) consists of a facility for the generation, transmission, distribution, and sale of
118 electric energy to a public utility, a municipality described in Subsection (12)(e)(vi)(B), or a
119 political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

120 Section 2. Section **63H-1-102** is amended to read:

121 **63H-1-102. Definitions.**

122 As used in this chapter:

123 (1) "Authority" means the Military Installation Development Authority, created under
124 Section [63H-1-201](#).

125 (2) "Base taxable value" means:

126 (a) for military land or other land that was exempt from a property tax at the time that a
127 project area was created that included the military land or other land, a taxable value of zero; or

128 (b) for private property that is included in a project area, the taxable value of the
129 property within any portion of the project area, as designated by board resolution, from which
130 tax increment will be collected, as shown upon the assessment roll last equalized before the
131 year in which the authority issues a building permit for a building within that portion of the
132 project area.

133 (3) "Board" means the governing body of the authority created under Section
134 [63H-1-301](#).

135 (4) (a) "Dedicated tax collections" means the property tax that remains after the
136 authority is paid the tax increment it is entitled to receive under Subsection [63H-1-501](#)(1), for a
137 property tax levied by:

138 (i) a county, including a district the county has established under Subsection [17-34-3](#)(2)
139 to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated
140 Areas; or

141 (ii) an included municipality.

142 (b) "Dedicated tax collections" does not include a property tax levied by a county to
143 assess and collect property taxes under Subsections 59-2-1602(1) and (4).

144 (5) (a) "Development" means an activity occurring on land within a project area that is
145 owned or operated by the military, the authority, another public entity, or a private entity.

146 (b) "Development" includes the demolition, construction, reconstruction, modification,
147 expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or
148 recreational amenity.

149 [~~5~~] (6) "Development project" means a project to develop land within a project area.

150 [~~6~~] (7) "Elected member" means a member of the authority board who:

151 (a) is a mayor or member of a legislative body appointed under Subsection

152 63H-1-302(2)(b); or

153 (b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

154 (ii) concurrently serves in an elected state, county, or municipal office.

155 [~~7~~] (8) "Included municipality" means a municipality, some or all of which is
156 included within a project area.

157 [~~8~~] (9) "Military Installation Development Authority energy tax" or "MIDA energy
158 tax" means the tax levied under Section 63H-1-204.

159 [~~9~~] (10) "Military land" means land or a facility, including leased land or a leased
160 facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation
161 under the jurisdiction of the U.S. Department of Defense or the Utah National Guard.

162 [~~10~~] (11) "Municipal energy tax" means a municipal energy sales and use tax under
163 Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

164 [~~11~~] (12) "Municipal services revenue" means revenue that the authority:

165 (a) collects from the authority's:

166 (i) levy of a municipal energy tax;

167 (ii) levy of a MIDA energy tax;

168 (iii) levy of a telecommunications tax;

169 (iv) imposition of a transient room tax; and

170 (v) imposition of a resort communities tax;

171 (b) receives under Subsection 59-12-205(2)(b)(ii); and

172 (c) receives as dedicated tax collections.

173 ~~[(12)]~~ (13) "Municipal tax" means a municipal energy tax, MIDA energy tax,
174 telecommunications tax, transient room tax, or resort communities tax.

175 ~~[(13)]~~ (14) "Project area" means the land, including military land, whether consisting
176 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or
177 draft project area plan, where the development project set forth in the project area plan or draft
178 project area plan takes place or is proposed to take place.

179 ~~[(14)]~~ (15) "Project area budget" means a multiyear projection of annual or cumulative
180 revenues and expenses and other fiscal matters pertaining to a project area that includes:

181 (a) the base taxable value of property in the project area;

182 (b) the projected tax increment expected to be generated within the project area;

183 (c) the amount of the tax increment expected to be shared with other taxing entities;

184 (d) the amount of the tax increment expected to be used to implement the project area
185 plan, including the estimated amount of the tax increment to be used for land acquisition,
186 public improvements, infrastructure improvements, and loans, grants, or other incentives to
187 private and public entities;

188 (e) the tax increment expected to be used to cover the cost of administering the project
189 area plan;

190 (f) if the tax increment is to be collected at different times or from different portions of
191 the project area, or both:

192 (i) (A) the tax identification numbers of the parcels from which the tax increment will
193 be collected; or

194 (B) a legal description of the portion of the project area from which the tax increment
195 will be collected; and

196 (ii) an estimate of when other portions of the project area will become subject to
197 collection of the tax increment; and

198 (g) for property that the authority owns or leases and expects to sell or sublease, the
199 expected total cost of the property to the authority and the expected selling price or lease
200 payments.

201 ~~[(15)]~~ (16) "Project area plan" means a written plan that, after its effective date, guides
202 and controls the development within a project area.

203 ~~[(16)]~~ (17) (a) "Property tax" includes a privilege tax, except as described in
204 Subsection (17)(b), and each levy on an ad valorem basis on tangible or intangible personal or
205 real property.

206 (b) "Property tax" does not include a privilege tax on the taxable value attributable to a
207 portion of a facility leased to the military for a calendar year when:

208 (i) a lessee of military land has constructed a facility on the military land that is part of
209 a project area;

210 (ii) the lessee leases space in the facility to the military for the entire calendar year; and

211 (iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar
212 year, not including any common charges that are reimbursements for actual expenses.

213 ~~[(17)]~~ (18) "Public entity" means:

214 (a) the state, including each department or agency of the state; or

215 (b) a political subdivision of the state, including a county, city, town, school district,
216 local district, special service district, or interlocal cooperation entity.

217 ~~[(18) "Publicly owned infrastructure and improvements" means water, sewer, storm~~
218 ~~drainage, electrical, telecommunications, and other similar systems and lines, streets, roads,~~
219 ~~curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other~~
220 ~~buildings, facilities, infrastructure, and improvements that:]~~

221 ~~[(a) benefit the public; and]~~

222 ~~[(b) are:]~~

223 ~~[(i) publicly owned or owned by a utility; or]~~

224 ~~[(ii) publicly maintained or operated by the authority or another public entity.]~~

225 (19) (a) "Publicly owned infrastructure and improvements" means infrastructure,

226 improvements, facilities, or buildings that benefit the public and are:

227 (i) publicly owned by the military, the authority, or another public entity;

228 (ii) owned by a utility; or

229 (iii) publicly maintained or operated by the military, the authority, or another public
230 entity.

231 (b) "Publicly owned infrastructure and improvements" includes:

232 (i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm
233 drainage, natural gas, electricity, or telecommunications; and

234 (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking
235 facilities, and public transportation facilities.

236 ~~[(19)]~~ (20) "Remaining municipal services revenue" means municipal services revenue
237 that the authority has not spent during its fiscal year for municipal services as provided in
238 Subsection [63H-1-503\(1\)](#).

239 ~~[(20)]~~ (21) "Resort communities tax" means a sales and use tax imposed under Section
240 [59-12-401](#).

241 ~~[(21)]~~ (22) "Taxable value" means the value of property as shown on the last equalized
242 assessment roll as certified by the county assessor.

243 ~~[(22)]~~ (23) "Tax increment" means the difference between:

244 (a) the amount of property tax revenues generated each tax year by all taxing entities
245 from the area within a project area designated in the project area plan as the area from which
246 the tax increment is to be collected, using the current assessed value of the property; and

247 (b) the amount of property tax revenues that would be generated from that same area
248 using the base taxable value of the property.

249 ~~[(23)]~~ (24) "Taxing entity" means a public entity that levies a tax on property within a
250 project area.

251 ~~[(24)]~~ (25) "Telecommunications tax" means a telecommunications license tax under
252 Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

253 ~~[(25)]~~ (26) "Transient room tax" means a tax under Section [59-12-352](#).

254 Section 3. Section 63H-1-202 is amended to read:

255 **63H-1-202. Applicability of other law.**

256 (1) The authority or land within a project area is not subject to:

257 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

258 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

259 (c) [any] ordinances or regulations of a county or municipality, including those relating
260 to land use, health, business license, or franchise; or

261 (d) the jurisdiction of [any] a local district under Title 17B, Limited Purpose Local
262 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
263 Special Service District Act.

264 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,
265 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed
266 by Title 63E, Independent Entities Code.

267 (3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

268 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership
269 Act:

270 (i) if the military is the owner of land on which a condominium project is constructed,
271 it is not required to sign, execute, or record a declaration of a condominium project; and

272 (ii) if a condominium unit is owned by the authority and leased to the military for \$1 or
273 less per calendar year, not including any common charges that are reimbursements for actual
274 expenses:

275 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,
276 Condominium Ownership Act; and

277 (B) condominium unit owners within the same building or commercial condominium
278 project may agree on any method of allocation and payment of common area expenses,
279 regardless of the size or par value of each unit.

280 Section 4. Section 63H-1-501 is amended to read:

281 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**

282 **increment.**

283 (1) (a) The authority may:

284 (i) subject to Subsection (1)(b), receive up to 75% of the tax increment for up to 25
285 years, as provided in this part; and

286 (ii) use the tax increment during and after the period described in Subsection (1)(a)(i).

287 (b) With respect to a parcel located within a project area, the 25-year period described
288 in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first tax
289 increment from that parcel.

290 (2) Improvements on a parcel within a project area become subject to property tax on
291 January 1 immediately following the day on which the authority or an entity designated by the
292 authority issues a certificate of occupancy with respect to those improvements.

293 (3) Each county that collects property tax on property within a project area shall pay
294 and distribute to the authority the tax increment and dedicated tax collections that the authority
295 is entitled to collect under this title, in the manner and at the time provided in Section
296 [59-2-1365](#).

297 (4) (a) The board shall determine by resolution when the entire project area or an
298 individual parcel within a project area is subject to tax increment.

299 (b) The board shall amend the project area budget to reflect whether a parcel within a
300 project area is subject to tax increment.

301 **Section 5. Repealer.**

302 This bill repeals:

303 Section [19-6-504](#), **Assurance of sufficient revenue to pay bonds.**