

1 **MILITARY INSTALLATION DEVELOPMENT AUTHORITY**

2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jerry W. Stevenson**

6 House Sponsor: Stephen G. Handy

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies Title 19, Chapter 6, Part 5, Solid Waste Management Act, and Title
11 63H, Chapter 1, Military Installation Development Authority Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the definition of "solid waste management facility" to include an auxiliary
15 energy facility that is connected to an existing resource recovery facility;
- 16 ▶ repeals Section [19-6-504](#), which discusses certain requirements for a public entity
17 that issues bonds to finance a solid waste management facility;
- 18 ▶ defines the term "development" to include certain activities within a project area;
- 19 ▶ modifies the definition of "property tax" to not include a privilege tax on a portion
20 of a facility on military land leased back to the military under certain circumstances;
- 21 ▶ modifies the definition of "publicly owned infrastructure and improvements";
- 22 ▶ provides that the Military Installation Development Authority may not levy the
23 MIDA energy tax in an area in which construction on a federally owned data center
24 began prior to January 1, 2012, unless a manager of the data center:
 - 25 • provides written consent to the levy;
 - 26 • specifies the percentage of the levy or the amount of money to be raised by the
27 levy; and



- 28 • specifies the agreed uses of the money generated from the levy; and
- 29 ▶ provides that the issuance of a certificate of occupancy by the authority, or an entity
- 30 designated by the authority, determines when improvements on a parcel within a
- 31 project area becomes subject to property tax.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **19-6-502**, as last amended by Laws of Utah 2008, Chapters 89 and 360

39 **63H-1-102**, as last amended by Laws of Utah 2013, Chapter 362

40 **63H-1-204**, as enacted by Laws of Utah 2013, Chapter 362

41 **63H-1-501**, as last amended by Laws of Utah 2013, Chapter 362

42 REPEALS:

43 **19-6-504**, as renumbered and amended by Laws of Utah 1991, Chapter 112



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

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

47 **19-6-502. Definitions.**

48 As used in this part:

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

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

52 (a) a municipality;

53 (b) a special service district;

54 (c) a municipal-type service district;

55 (d) a service area; or

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

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

59 (4) "Municipal residential waste" means solid waste that is:
60 (a) discarded or rejected at a residence within the public entity's jurisdiction; and
61 (b) collected at or near the residence by:
62 (i) a public entity; or
63 (ii) a person with whom the public entity has as an agreement to provide solid waste
64 management.

65 (5) "Public entity" means:
66 (a) a county;
67 (b) a municipality;
68 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;
69 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or
70 (e) a municipal-type service district created under Title 17, Chapter 34,
71 Municipal-Type Services to Unincorporated Areas.

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

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

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

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

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

- 83 (i) garbage;
- 84 (ii) refuse;
- 85 (iii) industrial and commercial waste;
- 86 (iv) sludge from an air or water control facility;
- 87 (v) rubbish;
- 88 (vi) ash;
- 89 (vii) contained gaseous material;

- 90 (viii) incinerator residue;
- 91 (ix) demolition and construction debris;
- 92 (x) a discarded automobile; and
- 93 (xi) offal.
- 94 (b) "Solid waste" does not include sewage or another highly diluted water carried
- 95 material or substance and those in gaseous form.

96 (11) "Solid waste management" means the purposeful and systematic collection,

97 transportation, storage, processing, recovery, or disposal of solid waste.

98 (12) "Solid waste management facility" means a facility employed for solid waste

99 management, including:

- 100 (a) a transfer station;
- 101 (b) a transport system;
- 102 (c) a baling facility;
- 103 (d) a landfill; and
- 104 (e) a processing system, including:
 - 105 (i) a resource recovery facility;
 - 106 (ii) a facility for reducing solid waste volume;
 - 107 (iii) a plant or facility for compacting, composting, or pyrolization of solid waste;
 - 108 (iv) an incinerator;
 - 109 (v) a solid waste disposal, reduction, or conversion facility; and
 - 110 (vi) a facility for resource recovery of energy [~~consisting of~~], including an auxiliary
 - 111 energy facility that is connected to an existing resource recovery facility, that is:
 - 112 [~~(A) a facility for the production, transmission, distribution, and sale of heat and steam;~~]
 - 113 [~~(B) a facility for the generation and sale of electric energy to a public utility,~~
 - 114 ~~municipality, or other public entity that owns and operates an electric power system on March~~
 - 115 ~~15, 1982; and]~~
 - 116 [~~(C) a facility for the generation, sale, and transmission of electric energy on an~~
 - 117 ~~emergency basis only to a military installation of the United States.]~~
 - 118 (A) fueled by solid waste or fuel derived from solid waste, natural gas, or landfill gas;
 - 119 (B) used for the production, transmission, distribution, and sale of heat and steam to a
 - 120 United States military installation located on military land, as defined in Section [63H-1-102](#), or

121 another purchaser; and

122 (C) used for the generation, transmission, distribution, and sale of electric energy to the
123 military installation, a public utility, a municipal electric utility, or other public entity.

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

125 **63H-1-102. Definitions.**

126 As used in this chapter:

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

129 (2) "Base taxable value" means:

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

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

137 (3) "Board" means the governing body of the authority created under Section
138 [63H-1-301](#).

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

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

145 (ii) an included municipality.

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

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

150 (b) "Development" includes the demolition, construction, reconstruction, modification,
151 expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or

152 recreational amenity.

153 [~~(5)~~] (6) "Development project" means a project to develop land within a project area.

154 [~~(6)~~] (7) "Elected member" means a member of the authority board who:

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

156 63H-1-302(2)(b); or

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

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

159 [~~(7)~~] (8) "Included municipality" means a municipality, some or all of which is

160 included within a project area.

161 [~~(8)~~] (9) "Military Installation Development Authority energy tax" or "MIDA energy

162 tax" means the tax levied under Section 63H-1-204.

163 [~~(9)~~] (10) "Military land" means land or a facility, including leased land or a leased

164 facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation

165 under the jurisdiction of the U.S. Department of Defense or the Utah National Guard.

166 [~~(10)~~] (11) "Municipal energy tax" means a municipal energy sales and use tax under

167 Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

168 [~~(11)~~] (12) "Municipal services revenue" means revenue that the authority:

169 (a) collects from the authority's:

170 (i) levy of a municipal energy tax;

171 (ii) levy of a MIDA energy tax;

172 (iii) levy of a telecommunications tax;

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

174 (v) imposition of a resort communities tax;

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

176 (c) receives as dedicated tax collections.

177 [~~(12)~~] (13) "Municipal tax" means a municipal energy tax, MIDA energy tax,

178 telecommunications tax, transient room tax, or resort communities tax.

179 [~~(13)~~] (14) "Project area" means the land, including military land, whether consisting

180 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or

181 draft project area plan, where the development project set forth in the project area plan or draft

182 project area plan takes place or is proposed to take place.

183 ~~[(14)]~~ (15) "Project area budget" means a multiyear projection of annual or cumulative
184 revenues and expenses and other fiscal matters pertaining to a project area that includes:

- 185 (a) the base taxable value of property in the project area;
186 (b) the projected tax increment expected to be generated within the project area;
187 (c) the amount of the tax increment expected to be shared with other taxing entities;
188 (d) the amount of the tax increment expected to be used to implement the project area
189 plan, including the estimated amount of the tax increment to be used for land acquisition,
190 public improvements, infrastructure improvements, and loans, grants, or other incentives to
191 private and public entities;

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

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

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

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

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

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

205 ~~[(15)]~~ (16) "Project area plan" means a written plan that, after its effective date, guides
206 and controls the development within a project area.

207 ~~[(16)]~~ (17) (a) "Property tax" includes a privilege tax, except as described in
208 Subsection (17)(b), and each levy on an ad valorem basis on tangible or intangible personal or
209 real property.

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

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

214 (ii) the lessee leases space in the facility to the military for the entire calendar year; and
215 (iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar
216 year, not including any common charges that are reimbursements for actual expenses.

217 ~~[(17)]~~ (18) "Public entity" means:

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

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

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

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

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

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

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

229 (19) (a) "Publicly owned infrastructure and improvements" means infrastructure,
230 improvements, facilities, or buildings that benefit the public and are:

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

232 (ii) owned by a utility; or

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

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

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

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

240 ~~[(19)]~~ (20) "Remaining municipal services revenue" means municipal services revenue
241 that the authority has not spent during its fiscal year for municipal services as provided in
242 Subsection [63H-1-503\(1\)](#).

243 ~~[(20)]~~ (21) "Resort communities tax" means a sales and use tax imposed under Section
244 [59-12-401](#).

245 [~~(21)~~] (22) "Taxable value" means the value of property as shown on the last equalized
246 assessment roll as certified by the county assessor.

247 [~~(22)~~] (23) "Tax increment" means the difference between:

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

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

253 [~~(23)~~] (24) "Taxing entity" means a public entity that levies a tax on property within a
254 project area.

255 [~~(24)~~] (25) "Telecommunications tax" means a telecommunications license tax under
256 Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

257 [~~(25)~~] (26) "Transient room tax" means a tax under Section [59-12-352](#).
258 Section 3. Section **63H-1-204** is amended to read:

259 **63H-1-204. MIDA energy tax.**

260 (1) By ordinance, an authority board may levy a MIDA energy tax, within a project
261 area, on an energy supplier as defined in Section [10-1-303](#).

262 (2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined
263 in Section [10-1-303](#), except that delivered value does not include the amount of a tax paid
264 under this section.

265 (3) (a) An energy supplier may recover an amount equal to the MIDA energy tax from
266 its customers, if the energy supplier includes the amount as a separate billing line item.

267 (b) The MIDA energy tax levied under this section is in addition to the rate approved
268 by the Public Service Commission and charged to the customer.

269 (4) If the authority has levied a municipal energy tax in the project area, the MIDA
270 energy tax paid by a customer is reduced by any municipal energy tax paid by that customer on
271 the same delivered value.

272 (5) (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly
273 basis as described by the ordinance levying the tax.

274 (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance
275 each month to offset the energy supplier's costs of collecting and remitting the tax.

276 (6) (a) Except as provided in Subsection (6)(b), the authority may not levy the MIDA
277 energy tax in a project area in which construction on a federally owned data center began
278 before January 1, 2012.

279 (b) The MIDA energy tax may be levied if a manager of a federally owned data center
280 that would otherwise be exempt from the tax provides written notice that:

- 281 (i) the federally owned data center agrees to the levy;
- 282 (ii) specifies the percentage of the levy or the amount of money to be raised; and
- 283 (iii) specifies the agreed uses of money generated from the levy.

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

285 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**
286 **increment.**

287 (1) (a) The authority may:

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

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

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

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

297 (3) Each county that collects property tax on property within a project area shall pay
298 and distribute to the authority the tax increment and dedicated tax collections that the authority
299 is entitled to collect under this title, in the manner and at the time provided in Section
300 [59-2-1365](#).

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

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

305 Section 5. **Repealer.**

306 This bill repeals:

307

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

Legislative Review Note

as of 1-23-14 11:05 AM

Office of Legislative Research and General Counsel