SB0098S02 compared with SB0098S01

~~{deleted text}~~ shows text that was in SB0098S01 but was deleted in SB0098S02.

Inserted text shows text that was not in SB0098S01 but was inserted into SB0098S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Wayne A. Harper proposes the following substitute bill:

COMMUNITY REINVESTMENT AGENCY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: ~~{_____}~~Stephen G. Handy

LONG TITLE

General Description:

This bill amends provisions in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- limits an agency's reporting requirements to only the reports required by law;
- prohibits a taxing entity from reducing the amount of project area funds under an interlocal agreement by a certain amount;
- ~~{~~ ~~places limitations on certain administrative fees a taxing entity may charge an agency;~~
- ~~}~~ removes the requirement for an agency to provide a housing allocation if the county and agency agree and the community reinvestment project area plan:

- provides solely for nonresidential project area development; and
- provides for a percentage of the jobs created within the project area to have a certain annual gross wage; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ **17C-1-409**, as last amended by Laws of Utah 2018, Chapter 312~~

~~**17C-5-202**, as last amended by Laws of Utah 2017, Chapter 456~~

~~}~~ **17C-5-204**, as enacted by Laws of Utah 2016, Chapter 350

17C-5-307, as enacted by Laws of Utah 2016, Chapter 350

ENACTS:

17C-1-609, Utah Code Annotated 1953

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

Section 1. Section ~~{**17C-1-409**}~~**17C-1-609** is ~~{amended to read:~~

~~**17C-1-409. Allowable uses of agency funds.**~~

~~(1) (a) [An]~~ Subject to the provisions of this section, an ~~agency may use agency funds:~~

~~(i) for any purpose authorized under this title;~~

~~(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;~~

~~(iii) to pay for, including financing or refinancing, all or part of:~~

~~(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;~~

~~(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;~~

~~(C) an incentive or other consideration paid to a participant under a participation~~

~~agreement;~~

~~(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or~~

~~(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;~~

~~(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(c), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:~~

~~(A) construction of a public road, bridge, or overpass;~~

~~(B) relocation of a railroad track within the urban renewal project area; or~~

~~(C) relocation of a railroad facility within the urban renewal project area; or~~

~~(v) subject to Subsection (5), to transfer funds to a community that created the agency.~~

~~(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.~~

~~(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.~~

~~(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:~~

~~(A) the board approves; and~~

~~(B) the community legislative body approves.~~

~~(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.~~

~~(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for~~

~~Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.~~

~~(c) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:~~

~~(i) the Department of Transportation; or~~

~~(ii) a public transit district.~~

~~(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.~~

~~(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.~~

~~(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.~~

~~(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.~~

~~(4) Notwithstanding any other provision of this title, an agency may not use [project area] agency funds to construct a local government building unless the taxing entity committee or each taxing entity that is a party to an interlocal agreement with the agency consents.~~

~~(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Section 35A-8-606.~~

~~(6) (a) Except as provided in Subsection (6)(b), an agency may not use project area funds to pay a taxing entity that is not the community that created the agency a one-time or ongoing:~~

~~(i) administrative fee; or~~

~~(ii) fee related to the creation, operation, or administration of a project area.~~

~~(b) Notwithstanding Subsection (6)(a), an agency may pay a county a one-time administrative fee related to the creation of a project area if:~~

~~(i) the agency and the county have entered into an interlocal agreement under Section 17C-5-204; and~~

~~(ii) the agreement provides for the agency to pay the fee using a portion of the county's project area funds that the county authorizes the agency to receive.~~

~~Section 2. Section **17C-1-609** is }~~enacted to read:

17C-1-609. Agency reporting limitations.

Except as required under this title, an agency is not required to submit to a public entity information or a report related to the agency's operations or project areas.

Section ~~{3}~~2. Section ~~{**17C-5-202**}~~**17C-5-204** is amended to read:

~~{ **17C-5-202. Community reinvestment project area funding options.**~~

~~(1) (a) Except as provided in Subsection (2), for the purpose of receiving project area funds for use within a community reinvestment project area, an agency shall negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to receive all or a portion of the taxing entity's tax increment or sales and use tax revenue in accordance with the interlocal agreement.~~

~~(b) If a community reinvestment project area is subject to an interlocal agreement under Subsection (1)(a) and the agency subsequently amends the community reinvestment project area plan as described in Subsection 17C-5-112(4), the agency shall continue to receive project area funds under the interlocal agreement.~~

~~(2) If an agency plans to create a community reinvestment project area and adopt a community reinvestment project area plan that provides for the use of eminent domain to acquire property within the community reinvestment project area, the agency shall create a taxing entity committee as described in Section 17C-1-402 and receive tax increment in accordance with Section 17C-5-203.~~

~~[(3) An agency shall comply with Chapter 5, Part 3, Community Reinvestment Project Area Budget, regardless of whether an agency enters into an interlocal agreement under Subsection (1) or creates a taxing entity committee under Subsection (2).]~~

~~(3) Regardless of whether an agency enters into an interlocal agreement under Subsection (1) or creates a taxing entity committee under Subsection (2), an agency:~~

~~(a) shall comply with Part 3, Community Reinvestment Project Area Budget; and~~

~~(b) except as provided in Subsection 17C-1-409(6)(b), may not pay a taxing entity that is not the community that created the agency a one-time or ongoing:~~

~~(i) administrative fee; or~~

~~(ii) fee related to the creation, operation, or administration of a project area.~~

~~Section 4. Section **17C-5-204** is amended to read:~~

~~)~~ }

17C-5-204. Community reinvestment project area subject to interlocal agreement -- Consent of a taxing entity to an agency receiving project area funds.

(1) As used in this section, "successor taxing entity" means a taxing entity that:

(a) is created after the day on which an interlocal agreement is executed to allow an agency to receive a taxing entity's project area funds; and

(b) levies or imposes a tax within the community reinvestment project area.

(2) This section applies to a community reinvestment project area that is subject to an interlocal agreement under Subsection 17C-5-202(1)(a).

(3) For the purpose of implementing a community reinvestment project area plan, an agency may negotiate with a taxing entity for all or a portion of the taxing entity's project area funds.

(4) A taxing entity may agree to allow an agency to receive the taxing entity's project area funds by executing an interlocal agreement with the agency in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an agency may use project area funds received under an interlocal agreement described in Subsection (4), the agency shall:

(a) obtain a written certification, signed by an attorney licensed to practice law in the state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the interlocal agreement; and

(b) provide a signed copy of the certification described in Subsection (5)(a) to the taxing entity.

(6) An interlocal agreement described in Subsection (4) shall:

(a) if the interlocal agreement provides for the agency to receive tax increment, state:

(i) the method of calculating the amount of the taxing entity's tax increment from the community reinvestment project area that the agency receives, including the base year and base

taxable value;

(ii) the project area funds collection period; and

(iii) the percentage of the taxing entity's tax increment or the maximum cumulative dollar amount of the taxing entity's tax increment that the agency receives;

(b) if the interlocal agreement provides for the agency to receive the taxing entity's sales and use tax revenue, state:

(i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency receives;

(ii) the project area funds collection period; and

(iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency receives; [~~and~~]

(c) include a copy of the community reinvestment project area budget[~~.~~]; and

(d) prohibit a taxing entity from proportionately reducing the amount of project area funds the taxing entity consents to pay to an agency under this section by the amount of any direct expenditures the taxing entity makes within the project area for the benefit of the project area or the agency~~{; and}~~.

~~{ (e) if the taxing entity is a county, state whether the county may, subject to Subsection 17C-1-409(6)(b), collect a one-time administrative fee from the agency.~~

~~}~~ (7) A school district may consent to allow an agency to receive tax increment from the school district's basic levy only to the extent that the school district also consents to allow the agency to receive tax increment from the school district's local levy.

(8) The parties may amend an interlocal agreement under this section by mutual consent.

(9) A taxing entity's consent to allow an agency to receive project area funds under this section is not subject to the requirements of Section 10-8-2.

(10) An interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Section ~~{5}~~3. Section **17C-5-307** is amended to read:

17C-5-307. Allocating project area funds for housing.

(1) Except as provided in Subsection (4), an agency shall allocate the agency's project area funds for housing in accordance with this section.

[~~(1)~~] (2) (a) For a community reinvestment project area that is subject to a taxing entity committee, an agency shall allocate at least 20% of the agency's annual tax increment for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than $100,000 of annual tax increment to be distributed to the agency.

(b) The taxing entity committee may waive a portion of the allocation described in Subsection [~~(1)~~] (2)(a) if:

(i) the taxing entity committee determines that 20% of the agency's annual tax increment is more than is needed to address the community's need for income targeted housing or homeless assistance; and

(ii) after the waiver, the agency's housing allocation is equal to at least 10% of the agency's annual tax increment.

[~~(2)~~] (3) For a community reinvestment project area that is subject to an interlocal agreement, an agency shall allocate at least 10% of the project area funds for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than $100,000 of annual project area funds to be distributed to the agency.

(4) An agency is not required to allocate the agency's community reinvestment project area funds for housing under this section if:

(a) the agency and the county mutually agree in the interlocal agreement described in Subsection (3) that the agency will not make the allocation; and

(b) the community reinvestment project area plan:

(~~(a)~~i) provides solely for nonresidential project area development; and

(~~(b)~~ii) provides for 60% of the jobs created within the project area to have an annual gross wage, not including healthcare or other paid or unpaid benefits, that is at least 125% of the average wage of the county in which the project area is located.