

Representative Mike Winder proposes the following substitute bill:

TAXING ENTITY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- ▶ defines the term, "nonagreement tax entity";
- ▶ authorizes a community reinvestment agency to receive tax increment related to a community reinvestment project area from a tax entity that has not entered into an interlocal agreement with the agency under certain circumstances;
- ▶ describes the process for an agency to consider and pass a nonagreement tax entity resolution; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-5-204, as last amended by Laws of Utah 2019, Chapter 333



26 ENACTS:

27 [17C-5-207](#), Utah Code Annotated 1953

28

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

30 Section 1. Section [17C-5-204](#) is amended to read:

31 **[17C-5-204. Community reinvestment project area subject to interlocal agreement](#)**

32 **-- Consent of a taxing entity to an agency receiving project area funds.**

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

34 (a) is created after the day on which:

35 (i) an interlocal agreement is executed to allow an agency to receive a taxing entity's
36 project area funds; [~~and~~] or

37 (ii) a nonagreement tax entity resolution has been passed in accordance with Section
38 [17C-5-207](#); and

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

40 (2) This section applies to:

41 (a) a community reinvestment project area that is subject to an interlocal agreement
42 under Subsection [17C-5-202\(1\)\(a\)](#)[-]; and

43 (b) a taxing entity that is subject to a nonagreement tax entity resolution as described in
44 Subsection (11).

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

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

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

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

56 (b) provide a signed copy of the certification described in Subsection (5)(a) to the

57 taxing entity.

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

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

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

63 (ii) the project area funds collection period; and

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

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

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

70 (ii) the project area funds collection period; and

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

73 (c) include a copy of the community reinvestment project area budget; and

74 (d) prohibit a taxing entity from proportionately reducing the amount of project area
75 funds the taxing entity consents to pay to an agency under this section by the amount of any
76 direct expenditures the taxing entity makes within the project area for the benefit of the project
77 area or the agency.

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

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

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

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

87 (11) A nonagreement tax entity resolution that has been passed in accordance with

88 Section 17C-5-207 may be enforced against any successor taxing entity.

89 Section 2. Section 17C-5-207 is enacted to read:

90 **17C-5-207. Tax increment funding from resolution.**

91 (1) As used in this section:

92 (a) "Nonagreement tax entity" means a lone taxing entity within a community
93 reinvestment project area that has not agreed to enter into an interlocal agreement with an
94 agency in accordance with Section 17C-5-204, and where every other taxing entity within the
95 community reinvestment project area has entered into an interlocal agreement with the agency
96 in accordance with Sections 17C-5-204 and 17C-5-205.

97 (b) "Nonagreement tax entity" does not include a taxing entity that is a school district.

98 (2) This section applies only to a community reinvestment project area created on or
99 after May 4, 2022.

100 (3) An agency may receive tax increment from a nonagreement tax entity in accordance
101 with the provisions of this section.

102 (4) (a) Within 30 days after the day on which an open and public meeting, as described
103 in Section 17C-5-205, has been held adopting one or more interlocal agreements such that each
104 taxing entity within a community reinvestment project area save one has entered into an
105 interlocal agreement with an agency, an agency may provide notice to a nonagreement tax
106 entity that the agency will hold an open and public meeting to consider requiring tax increment
107 from the nonagreement tax entity as authorized by this section.

108 (b) An open and public meeting to consider requiring tax increment from the
109 nonagreement tax entity, shall be held no sooner than 30 days after the day on which notice is
110 provided to the nonagreement tax entity in accordance with Subsection (4)(a) and no later than
111 90 days after the day on which the last open and public meeting was held to approve one or
112 more interlocal agreements as described in Subsection (4)(a).

113 (c) At an open and public meeting to consider requiring tax increment from a
114 nonagreement tax entity, the agency board:

115 (i) shall provide the nonagreement tax entity with the opportunity to present to the
116 board the reasons why the nonagreement tax entity has not entered into an interlocal agreement
117 with the agency;

118 (ii) may take no further action or may adopt a resolution requiring the nonagreement

119 tax entity to provide tax increment towards the community reinvestment project:

120 (A) in a percentage determined by the board, but that may be no more than the lowest
121 percentage of tax increment that has been agreed to by each taxing entity that has entered into
122 an interlocal agreement with the agency; and

123 (B) for a time period determined by the board, but that may be no longer than the
124 shortest time period of providing tax increment that has been agreed to by each taxing entity
125 that has entered into an interlocal agreement with the agency.

126 (5) An agency that will receive tax increment for a community reinvestment project
127 area under a nonagreement tax entity resolution as described in Subsection (4) shall, within 30
128 days after the day on which the resolution is adopted, file a copy of the resolution with:

129 (a) the State Tax Commission, the State Board of Education, and the state auditor; and

130 (b) the auditor of the county in which the community reinvestment project area is
131 located.

132 (6) A county that collects property tax on property within a community reinvestment
133 project area that is subject to a nonagreement tax entity resolution shall, in accordance with
134 Section [59-2-1365](#), pay and distribute to the agency the tax increment that the agency is
135 authorized to receive under the resolution.