

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0725.02 Bob Lackner x4350

SENATE BILL 16-177

SENATE SPONSORSHIP

Martinez Humenik and Heath, Kefalas

HOUSE SPONSORSHIP

Hullinghorst and Lawrence,

Senate Committees
Local Government

House Committees
State, Veterans, & Military Affairs

HOUSE
3rd Reading Unamended
April 29, 2016

HOUSE
Amended 2nd Reading
April 28, 2016

A BILL FOR AN ACT

101 **CONCERNING TECHNICAL MODIFICATIONS TO LEGISLATION ENACTED**
102 **IN 2015 TO PROMOTE AN EQUITABLE FINANCIAL CONTRIBUTION**
103 **AMONG AFFECTED PUBLIC BODIES IN CONNECTION WITH URBAN**
104 **REDEVELOPMENT PROJECTS ALLOCATING TAX REVENUES.**

SENATE
3rd Reading Unamended
April 15, 2016

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes technical modifications to statutory provisions enacted by the general assembly in 2015 (2015 legislation) that addressed urban renewal plan allocating of tax revenue. Among the modifications,

SENATE
2nd Reading Unamended
April 14, 2016

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the bill:

- ! In various places, substitutes the term "authority" for the terms "governing body" or "municipality" and "taxing entity" for the term "public body". Defines "taxing entity" to mean any county, special district, or other public body that levies an ad valorem property tax on property within the urban renewal area subject to a tax allocation provision.
- ! Clarifies that the subject of the agreement about which the authority and the taxing bodies are required to negotiate under the 2015 legislation concerns the sharing of incremental property tax revenue allocated to the special fund of the authority.
- ! Clarifies that the shared tax revenues governed by the agreement are limited to incremental revenue generated by the taxes levied upon taxable property by the taxing entity within the area covered by the urban renewal plan in addition to any incremental sales tax generated within the area included within the urban renewal plan by the imposition of the municipal sales tax and, at the option of any other taxing entity levying a sales tax within the area covered by the urban renewal plan, any incremental sales tax revenues of such other taxing entity that is included within the agreement.
- ! Deletes language from the 2015 legislation that permitted the municipality to delegate to the authority the responsibility for negotiating the subject agreement.
- ! In connection with the subject of the required mediation between the authority and taxing entities, clarifies that the main issue of the mediation is the sharing of incremental property tax revenues and urban renewal project costs among the authority and any such taxing entities whose incremental property tax revenues will be allocated pursuant to an urban renewal plan and with whom an intergovernmental agreement with the authority has not been reached.
- ! Requires the mediation to be conducted by a mediator jointly selected by the parties. Specifies the method of selecting a 3-mediator panel if the parties are unable to agree on the selection of a single mediator. Specifies the minimum qualifications of the mediator and the method for allocating the payment of the fees and costs of the mediation.
- ! Clarifies that the mediator must issue his or her findings of fact as to the appropriate sharing of costs and incremental property tax revenues. Strikes language from the 2015

legislation that required the municipality to either agree to the mediator's findings by including in the urban renewal plan cost allocation provisions determined by the mediator or by entering into an intergovernmental agreement with the taxing entity providing an alternative cost allocation methodology. Instead, specifies that, with respect to the use of incremental property tax revenues of each other taxing entity, following the issuance of findings by the mediator, the municipality is required to:

- ! Incorporate the mediator's findings on the use of incremental property tax revenues of any taxing body into the urban renewal plan and proceed to adopt the plan;
 - ! Amend the urban renewal plan to delete authorization of the use of the incremental property tax revenues of any taxing body with whom an agreement has not been reached; or
 - ! Direct the authority to either incorporate the mediator's findings into one or more intergovernmental agreements with other taxing entities or to enter into new negotiations with one or more taxing entities and to enter into one or more intergovernmental agreements with such taxing entities that incorporate such new or different provisions concerning the sharing of costs and incremental property tax revenues with which the parties are in agreement.
- ! Clarifies that nothing in the 2015 legislation is intended to impair, jeopardize, or put at risk any existing bonds, investments, loans, contracts, or financial obligations of an urban renewal authority outstanding as of December 31, 2015, or the pledge of pledged revenues or assets to the payment thereof that occurred on or before December 31, 2015.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 31-25-107, **amend**
3 (9.5); and **add** (9.7) as follows:

4 **31-25-107. Approval of urban renewal plans by local**
5 **governing body - definition.** (9.5) (a) Before any urban renewal plan

1 containing any tax allocation provisions that allocates any taxes of any
2 ~~public body~~ TAXING ENTITY other than the municipality may be approved
3 by the municipal governing body pursuant to subsection (4) of this
4 section, the ~~governing body~~ AUTHORITY shall notify the board of county
5 commissioners of each county and the governing boards of each other
6 ~~public body~~ TAXING ENTITY whose INCREMENTAL property tax revenues
7 would be allocated under such proposed plan. Representatives of the
8 ~~municipal governing body~~ AUTHORITY and THE GOVERNING BODY OF each
9 ~~board of county commissioners and each public body~~ TAXING ENTITY
10 shall then meet and attempt to negotiate an agreement governing the ~~types~~
11 ~~and limits of tax revenues of each taxing entity to be allocated to the~~
12 ~~urban renewal plan~~ SHARING OF INCREMENTAL PROPERTY TAX REVENUE
13 ALLOCATED TO THE SPECIAL FUND OF THE AUTHORITY ESTABLISHED IN
14 ACCORDANCE WITH SUBPARAGRAPH (II) OF PARAGRAPH (a) OF
15 SUBSECTION (9) OF THIS SECTION. The agreement must address, without
16 limitation, estimated impacts of the urban renewal plan on county or
17 district services associated solely with the urban renewal plan. The
18 agreement may be entered into separately among ~~the municipality~~, the
19 authority and each such ~~county or other public body~~ TAXING ENTITY, or
20 through a joint agreement among ~~the municipality~~, the authority and any
21 ~~public body~~ TAXING ENTITY that has chosen to enter that agreement. Any
22 such ~~allocated~~ shared INCREMENTAL tax revenues governed by any
23 agreement are limited to all or any portion of the INCREMENTAL REVENUE
24 GENERATED BY THE taxes levied upon taxable property by the ~~public body~~
25 TAXING ENTITY within the area covered by the urban renewal plan in
26 addition to any INCREMENTAL sales tax revenues generated within the area
27 covered by the urban renewal plan by the imposition of the sales tax of

1 the municipality and, AT THE OPTION OF any other ~~public body~~ TAXING
2 ENTITY LEVYING A SALES TAX IN THE AREA COVERED BY THE URBAN
3 RENEWAL PLAN, ANY INCREMENTAL SALES TAX REVENUES OF SUCH OTHER
4 TAXING ENTITY THAT ARE INCLUDED WITHIN THE AGREEMENT.

5 (b) The agreement described in paragraph (a) of this subsection
6 (9.5) may provide for a waiver of any provision of this part 1 that
7 provides for notice to the ~~public body~~ TAXING ENTITY, requires any filing
8 with or by the ~~public body~~ TAXING ENTITY, requires or permits consent
9 from the ~~public body~~ TAXING ENTITY, or provides any enforcement right
10 to the ~~public body~~. ~~The municipality may delegate to the authority the~~
11 ~~responsibility for negotiating the agreement described in paragraph (a) of~~
12 ~~this subsection (9.5) as long as final approval of the plan or any~~
13 ~~modification of the plan is made by the governing body of the~~
14 ~~municipality in accordance with subsection (4) of this section~~ TAXING
15 ENTITY.

16 (c) If, after a period of one hundred twenty days from the date of
17 notice or such longer or shorter period as the ~~municipal governing body~~
18 AUTHORITY and any ~~public body~~ TAXING ENTITY may agree, there is no
19 agreement between the ~~municipal governing body~~ AUTHORITY and any
20 ~~public body~~ TAXING ENTITY as described in paragraph (a) of this
21 subsection (9.5), the ~~municipal governing body~~ AUTHORITY and any
22 applicable ~~public body~~ TAXING ENTITY are subject to the provisions and
23 limitations of paragraph (d) of this subsection (9.5).

24 (d) (I) In an absence of an agreement between the ~~municipality~~
25 AUTHORITY and any taxing entity as described in paragraph (a) of this
26 subsection (9.5), the parties must submit to mediation on the issue of
27 appropriate ~~allocation of~~ SHARING OF INCREMENTAL PROPERTY TAX

1 REVENUES AND urban renewal project costs among the ~~municipality~~
2 AUTHORITY and ~~all other~~ ANY SUCH taxing entities whose ~~taxes~~
3 INCREMENTAL PROPERTY TAX REVENUES will be allocated pursuant to an
4 urban renewal plan AND WITH WHOM AN INTERGOVERNMENTAL
5 AGREEMENT WITH THE AUTHORITY HAS NOT BEEN REACHED.

6 (II) THE MEDIATION REQUIRED BY SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH (d) MUST BE CONDUCTED BY A MEDIATOR WHO HAS BEEN
8 JOINTLY SELECTED BY THE PARTIES; EXCEPT THAT, IF THE PARTIES ARE
9 UNABLE TO AGREE ON THE SELECTION OF A MEDIATOR, THEN THE
10 AUTHORITY SHALL SELECT ONE MEDIATOR, THE OTHER PARTIES SHALL
11 SELECT A SECOND MEDIATOR, AND THESE TWO MEDIATORS SHALL THEN
12 SELECT A THIRD MEDIATOR. IN SUCH CIRCUMSTANCES, THE MEDIATION
13 WILL BE JOINTLY CONDUCTED BY THE THREE MEDIATORS. UNLESS ALL
14 PARTIES OTHERWISE AGREE, ANY MEDIATOR SELECTED PURSUANT TO THIS
15 PARAGRAPH (d) MUST BE AN ATTORNEY LICENSED IN THE STATE FOR AT
16 LEAST TEN YEARS AND MUST BE EXPERIENCED IN BOTH LAND USE AND
17 ADMINISTRATIVE LAW. PAYMENT OF THE FEES AND COSTS FOR THE
18 MEDIATION MUST BE SPLIT EQUALLY BETWEEN OR AMONG THE PARTIES.

19 (III) In making a determination of the appropriate ~~allocation~~
20 SHARING, the mediator must consider the nature of the project, the nature
21 and relative size of the revenue and other benefits that are expected to
22 accrue to the municipality and other taxing entities as a result of the
23 project, any legal limitations on the use of revenues belonging to the
24 ~~municipality~~ AUTHORITY or any taxing entity, and any capital or operating
25 costs that are expected to result from the project. Within ninety days, the
26 mediator must issue his or her findings of fact as to the appropriate
27 ~~allocation~~ SHARING of costs and INCREMENTAL PROPERTY TAX REVENUES,

1 AND shall promptly transmit such information to the parties. ~~The~~
2 ~~municipality may agree to the mediator's findings by including in the~~
3 ~~urban renewal plan provisions that allocate municipal and incremental tax~~
4 ~~revenues of taxing bodies in accordance with the cost allocations~~
5 ~~determined by the mediator or by entering into an intergovernmental~~
6 ~~agreement with the taxing entity providing an alternative cost allocation~~
7 ~~methodology.~~ WITH RESPECT TO THE USE OF INCREMENTAL PROPERTY TAX
8 REVENUES OF EACH OTHER TAXING ENTITY, FOLLOWING THE ISSUANCE OF
9 FINDINGS BY THE MEDIATOR, THE GOVERNING BODY OF THE MUNICIPALITY
10 SHALL:

11 (A) INCORPORATE THE MEDIATOR'S FINDINGS ON THE USE OF
12 INCREMENTAL PROPERTY TAX REVENUES OF ANY TAXING BODY INTO THE
13 URBAN RENEWAL PLAN AND PROCEED TO ADOPT THE PLAN;

14 (B) AMEND THE URBAN RENEWAL PLAN TO DELETE
15 AUTHORIZATION OF THE USE OF THE INCREMENTAL PROPERTY TAX
16 REVENUES OF ANY TAXING BODY WITH WHOM AN AGREEMENT HAS NOT
17 BEEN REACHED; OR

18 (C) DIRECT THE AUTHORITY TO EITHER INCORPORATE THE
19 MEDIATOR'S FINDINGS INTO ONE OR MORE INTERGOVERNMENTAL
20 AGREEMENTS WITH OTHER TAXING ENTITIES OR TO ENTER INTO NEW
21 NEGOTIATIONS WITH ONE OR MORE TAXING ENTITIES AND TO ENTER INTO
22 ONE OR MORE INTERGOVERNMENTAL AGREEMENTS WITH SUCH TAXING
23 ENTITIES THAT INCORPORATE SUCH NEW OR DIFFERENT PROVISIONS
24 CONCERNING THE SHARING OF COSTS AND INCREMENTAL PROPERTY TAX
25 REVENUES WITH WHICH THE PARTIES ARE IN AGREEMENT.

26 (e) Notwithstanding any other provision of law, no ~~payments~~
27 INCREMENTAL PROPERTY TAX REVENUES may be ~~made~~ ALLOCATED AND

1 PAID into the special fund of the authority in accordance with
2 subparagraph (II) of paragraph (a) of subsection (9) of this section unless
3 the municipality or the authority has satisfied the requirements of this
4 subsection (9.5).

5 (e) (f) Notwithstanding any other provision of this section, a city
6 and county is not required to reach an agreement with a county satisfying
7 the requirements of this subsection (9.5).

8 (g) FOR PURPOSES OF THIS SUBSECTION (9.5), "TAXING ENTITY"
9 MEANS ANY COUNTY, SPECIAL DISTRICT, OR OTHER PUBLIC BODY THAT
10 LEVIES AN AD VALOREM PROPERTY TAX ON PROPERTY WITHIN THE URBAN
11 RENEWAL AREA SUBJECT TO A TAX ALLOCATION PROVISION.

12 (9.7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NOTHING
13 IN SUBSECTION (9.5) OF THIS SECTION, AS ADDED BY HOUSE BILL 15-1348,
14 ENACTED IN 2015, AND AS AMENDED BY SENATE BILL 16-177, ENACTED
15 IN 2016, IS INTENDED TO IMPAIR, JEOPARDIZE, OR PUT AT RISK ANY
16 EXISTING BONDS, INVESTMENTS, LOANS, CONTRACTS, OR FINANCIAL
17 OBLIGATIONS OF AN URBAN RENEWAL AUTHORITY OUTSTANDING AS OF
18 DECEMBER 31, 2015, OR THE PLEDGE OF PLEDGED REVENUES OR ASSETS
19 TO THE PAYMENT THEREOF THAT OCCURRED ON OR BEFORE DECEMBER 31,
20 2015.

21 **SECTION 2. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.