

CHAPTER 178

GOVERNMENT - MUNICIPAL

SENATE BILL 16-177

BY SENATOR(S) Martinez Humenik and Heath, Kefalas, Scheffel;
 also REPRESENTATIVE(S) Hullinghorst and Lawrence, Arndt, Becker K., Duran, Fields, Kraft-Tharp, Lontine, Mitsch Bush,
 Pettersen, Ryden, Vigil.

AN ACT

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

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

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

31-25-107. Approval of urban renewal plans by local governing body - definition. (9.5) (a) Before any urban renewal plan containing any tax allocation provisions that allocates any taxes of any ~~public body~~ TAXING ENTITY other than the municipality may be approved by the municipal governing body pursuant to subsection (4) of this section, the ~~governing body~~ AUTHORITY shall notify the board of county commissioners of each county and the governing boards of each other ~~public body~~ TAXING ENTITY whose INCREMENTAL property tax revenues would be allocated under such proposed plan. Representatives of the ~~municipal governing body~~ AUTHORITY and THE GOVERNING BODY OF each ~~board of county commissioners and each public body~~ TAXING ENTITY shall then meet and attempt to negotiate an agreement governing the ~~types and limits of tax revenues of each taxing entity to be allocated to the urban renewal plan~~ SHARING OF INCREMENTAL PROPERTY TAX REVENUE ALLOCATED TO THE SPECIAL FUND OF THE AUTHORITY ESTABLISHED IN ACCORDANCE WITH SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (9) OF THIS SECTION. The agreement must address, without limitation, estimated impacts of the urban renewal plan on county or district services associated solely with the urban renewal plan. The agreement may be entered into separately among ~~the municipality, the authority and each such county or other public body~~ TAXING ENTITY, or through a joint agreement among the ~~municipality, the authority~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

and any ~~public body~~ TAXING ENTITY that has chosen to enter that agreement. Any such ~~allocated~~ shared INCREMENTAL tax revenues governed by any agreement are limited to all or any portion of the INCREMENTAL REVENUE GENERATED BY THE taxes levied upon taxable property by the ~~public body~~ TAXING ENTITY within the area covered by the urban renewal plan in addition to any INCREMENTAL sales tax revenues generated within the area covered by the urban renewal plan by the imposition of the sales tax of the municipality and, AT THE OPTION OF any other ~~public body~~ TAXING ENTITY LEVYING A SALES TAX IN THE AREA COVERED BY THE URBAN RENEWAL PLAN, ANY INCREMENTAL SALES TAX REVENUES OF SUCH OTHER TAXING ENTITY THAT ARE INCLUDED WITHIN THE AGREEMENT.

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

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

(d) (I) In an absence of an agreement between the ~~municipality~~ AUTHORITY and any taxing entity as described in paragraph (a) of this subsection (9.5), the parties must submit to mediation on the issue of appropriate ~~allocation of~~ SHARING OF INCREMENTAL PROPERTY TAX REVENUES AND urban renewal project costs among the ~~municipality~~ AUTHORITY and ~~all other~~ ANY SUCH taxing entities whose taxes 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.

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

(III) In making a determination of the appropriate ~~allocation~~ SHARING, the mediator must consider the nature of the project, the nature and relative size of the revenue and other benefits that are expected to accrue to the municipality and other taxing entities as a result of the project, any legal limitations on the use of revenues belonging to the ~~municipality~~ AUTHORITY or any taxing entity, and any capital or operating costs that are expected to result from the project. Within ninety days, the mediator must issue his or her findings of fact as to the appropriate ~~allocation~~ SHARING of costs and INCREMENTAL PROPERTY TAX REVENUES, AND shall promptly transmit such information to the parties. ~~The municipality may agree to the mediator's findings by including in the urban renewal plan provisions that allocate municipal and incremental tax revenues of taxing bodies in accordance with the cost allocations determined by the mediator or by entering into an intergovernmental agreement with the taxing entity providing an alternative cost allocation methodology.~~ WITH RESPECT TO THE USE OF INCREMENTAL PROPERTY TAX REVENUES OF EACH OTHER TAXING ENTITY, FOLLOWING THE ISSUANCE OF FINDINGS BY THE MEDIATOR, THE GOVERNING BODY OF THE MUNICIPALITY SHALL:

(A) 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;

(B) 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

(C) 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.

(e) Notwithstanding any other provision of law, ~~no payments~~ INCREMENTAL PROPERTY TAX REVENUES ~~may be made~~ ALLOCATED AND PAID into the special fund of the authority in accordance with subparagraph (II) of paragraph (a) of subsection (9) of this section unless the municipality or the authority has satisfied the requirements of this subsection (9.5).

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

(g) FOR PURPOSES OF THIS SUBSECTION (9.5), "TAXING ENTITY" MEANS 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.

(9.7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NOTHING IN SUBSECTION (9.5) OF THIS SECTION, AS ADDED BY HOUSE BILL 15-1348, ENACTED IN 2015, AND AS AMENDED BY SENATE BILL 16-177, ENACTED IN 2016, 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.

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

Approved: May 18, 2016