

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 23-0806.01 Nicole Myers x4326

SENATE BILL 23-175

SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE USE OF TAX INCREMENT FINANCING BY DOWNTOWN**
102 **DEVELOPMENT AUTHORITIES.**

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://leg.colorado.gov>.)

Currently, the governing body of any municipality in the state may, with voter approval, establish a downtown development authority (authority) to assist the municipality in the development and redevelopment of its central business district. An authority may, if approved by the voters, use tax increment financing (TIF) to generate capital by dedicating growth in property tax or sales tax revenue to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
April 21, 2023

SENATE
3rd Reading Unamended
March 31, 2023

SENATE
Amended 2nd Reading
March 30, 2023

finance projects within the boundaries of the authority. The tax increment is the amount of additional tax revenue represented by the difference between the actual amount of tax revenue collected after the TIF is established and the base year tax revenue within the boundaries of the authority. The revenue that is attributed to the growing tax base is the incremental revenue used to finance the redevelopment projects within the boundaries of the authority (incremental revenue).

Currently, an authority may use a TIF arrangement for a period of 30 years with the option for one 20-year extension. For property tax revenue only, the bill creates automatic and recurring additional 20-year extension periods during which an authority may use a TIF arrangement, unless the governing body of the municipality opts out of the extensions. The first additional extension period begins upon the expiration of the original 50-year period.

During the 20-year extension period allowed pursuant to current law, 50% of the incremental revenue is allocated to a special fund of the municipality that created the authority (special fund), to be used to finance projects within the boundaries of the authority. The other 50% of the incremental revenue is allocated to the other governmental entities that levy property taxes within the boundaries of the authority, unless the municipality and all of the other governmental entities reach an alternative agreement. For the automatic and recurring 20-year extension periods, the bill continues the default split of the incremental revenue unless the municipality and all of the other governmental entities reach an alternative agreement.

During the last 10 years of a 20-year extension allowed pursuant to current law, the base year revenue for the TIF is recalculated every year. For an automatic and recurring 20-year extension period, the bill requires the base year revenue to be recalculated every year.

Pursuant to current law, the governing body of a municipality must incur any debt to be used to finance the projects of the authority. The bill allows a municipality and an authority to enter into an intergovernmental agreement through which the municipality may delegate to the board of the authority the power to incur debt and to pledge money in a special fund of the municipality for the payment of the debt. The bonds issued by the board must be authorized by a resolution of the board and must be issued by the authority acting on behalf of the municipality.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-25-805, **amend**

3 (1) and (2)(a) as follows:

4 **31-25-805. Board - membership - term of office.** (1) The affairs

1 of the authority shall be under the direct supervision and control of a
2 board consisting of not less than five nor more than eleven members
3 appointed by the governing body; EXCEPT THAT FOR ANY TWENTY-YEAR
4 EXTENSION PERIOD PURSUANT TO SECTION 31-25-807 (3)(a)(V), THE
5 AFFAIRS OF THE AUTHORITY SHALL BE UNDER THE DIRECT SUPERVISION
6 AND CONTROL OF A BOARD CONSISTING OF NOT LESS THAN NINE AND NO
7 MORE THAN THIRTEEN MEMBERS, WITH TWO MEMBERS APPOINTED BY THE
8 ENTITIES IDENTIFIED IN SUBSECTION (2)(a)(II) OF THIS SECTION AND ALL
9 REMAINING MEMBERS APPOINTED BY THE GOVERNING BODY. A majority
10 of the members appointed shall reside or own property in the downtown
11 development AUTHORITY district.

12 (2) The board shall be constituted as follows:

13 (a) (I) At least one member shall be a member of the governing
14 body, appointed to serve at the pleasure of the governing body; AND

15 (II) FOR ANY TWENTY-YEAR EXTENSION PERIOD PURSUANT TO
16 SECTION 31-25-807 (3)(a)(V), ONE MEMBER SHALL BE A MEMBER OF THE
17 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE
18 AUTHORITY DISTRICT IS LOCATED, APPOINTED TO SERVE AT THE PLEASURE
19 OF THE BOARD OF COUNTY COMMISSIONERS. IF THE AUTHORITY DISTRICT
20 IS LOCATED IN MORE THAN ONE COUNTY, THE APPOINTMENT IS BY AN
21 AGREEMENT OF ALL THE COUNTIES IN WHICH THE AUTHORITY DISTRICT IS
22 LOCATED. IF THE APPOINTING COUNTY IS A CITY AND COUNTY, THE
23 REQUIREMENT FOR A COUNTY-APPOINTED BOARD MEMBER PURSUANT TO
24 THIS SUBSECTION (2)(a)(II) DOES NOT APPLY. IN ADDITION, ONE MEMBER
25 SHALL BE A MEMBER OF THE OF THE SCHOOL DISTRICT BOARD OF
26 EDUCATION OF THE SCHOOL DISTRICT IN WHICH THE AUTHORITY DISTRICT
27 IS LOCATED, APPOINTED TO SERVE AT THE PLEASURE OF THE SCHOOL

1 DISTRICT BOARD OF EDUCATION. IF A COUNTY OR SCHOOL DISTRICT DOES
2 NOT APPOINT A MEMBER OF THE BOARD, THEN THE COUNTY OR SCHOOL
3 DISTRICT APPOINTMENT REMAINS VACANT UNTIL THE APPLICABLE
4 APPOINTING AUTHORITY MAKES THE APPOINTMENT PURSUANT TO THIS
5 SUBSECTION (2)(a)(II).

6 SECTION 2. In Colorado Revised Statutes, 31-25-807, amend
7 (3)(a) introductory portion, (3)(a)(II), and (3)(a)(IV); and add (3)(a)(V)
8 as follows:

9 31-25-807. Powers - duties. (3) (a) Notwithstanding any law to
10 the contrary and subject to ~~subsection (3)(a)(IV)~~ SUBSECTIONS (3)(a)(IV)
11 AND (3)(a)(V) of this section, any ~~such~~ plan of development as originally
12 adopted by the board or as later modified pursuant to this part 8 may, after
13 approval by the governing body of the municipality, contain a provision
14 that taxes, if any, levied after the effective date of the approval of ~~such~~
15 THE plan of development by ~~said~~ THE governing body upon taxable
16 property within the boundaries of the plan of development area each year
17 or that municipal sales taxes collected within said area, or both such
18 taxes, by or for the benefit of any public body shall be divided for a
19 period not to exceed thirty years or ~~such~~ A longer period as provided for
20 in ~~subsection (3)(a)(IV)~~ SUBSECTIONS (3)(a)(IV) AND (3)(a)(V) of this
21 section after the effective date of approval by ~~said~~ THE governing body of
22 such a provision, as follows:

23 (II) ~~That~~ THE portion of ~~said~~ property taxes or all or any portion
24 of ~~said~~ sales taxes, or both, in excess of ~~such~~ THE amount SPECIFIED IN
25 SUBSECTION (3)(a)(I) OF THIS SECTION shall be allocated to and, when
26 collected, paid into a special fund of the municipality for the payment of
27 the principal of, the interest on, and any premiums due in connection with

1 the bonds of, loans or advances to, or indebtedness incurred by, whether
2 funded, refunded, assumed, or otherwise, the municipality for financing
3 or refinancing, in whole or in part, a development project within the
4 boundaries of the plan of development area. Any excess municipal sales
5 tax collection not allocated pursuant to this ~~subparagraph (H)~~ SUBSECTION
6 (3)(a)(II) shall be paid into the funds of the municipality. Unless and until
7 the total valuation for assessment of the taxable property within the
8 boundaries of the plan of development area exceeds the base valuation for
9 assessment of the taxable property within such boundaries, as provided
10 in ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (3)(a)(I) OF THIS
11 SECTION, all of the taxes levied upon the taxable property in such
12 boundary area shall be paid into the funds of the respective public bodies.
13 Unless and until the total municipal sales tax collections in the plan of
14 development area exceed the base year municipal sales tax collections in
15 such area, as provided in ~~subparagraph (I) of this paragraph (a)~~
16 SUBSECTION (3)(a)(I) OF THIS SECTION, all such sales tax collections shall
17 be paid into the funds of the municipality. When such bonds, loans,
18 advances, and indebtedness, if any, including interest thereon and any
19 premiums due in connection therewith, and including any refunding
20 securities therefor, have been paid, all taxes upon the taxable property or
21 the total municipal sales tax collections, or both, in such boundary area
22 shall be paid into the funds of the respective public bodies. PURSUANT TO
23 AN INTERGOVERNMENTAL AGREEMENT BETWEEN A MUNICIPALITY AND AN
24 AUTHORITY, THE GOVERNING BODY MAY DELEGATE TO THE BOARD THE
25 POWER TO INCUR LOANS OR INDEBTEDNESS OR OBTAIN ADVANCES AND
26 TO PLEDGE MONEY IN THE SPECIAL FUND CREATED PURSUANT TO THIS
27 SUBSECTION (3)(a)(II) FOR THE PAYMENT OF ANY LOANS, ADVANCES,

1 OR INDEBTEDNESS. THE INTERGOVERNMENTAL AGREEMENT SHALL BE
2 APPROVED BY AN ORDINANCE ADOPTED BY THE GOVERNING BODY AND A
3 RESOLUTION ADOPTED BY THE BOARD AND SHALL INCLUDE TERMS,
4 CONDITIONS, OR LIMITATIONS ON THE POWER OF THE BOARD AS AGREED
5 TO BY THE GOVERNING BODY AND BOARD. ==

6 (IV) (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
7 (3)(a)(V) OF THIS SECTION, during the final ten years of the thirty-year
8 period during which a portion of the property taxes or sales taxes, or both,
9 may be allocated to and, when collected, paid into the special fund of the
10 municipality in accordance with the requirements of ~~subparagraph (H) of~~
11 ~~this paragraph (a)~~ SUBSECTION (3)(a)(II) OF THIS SECTION, the governing
12 body may by ordinance extend the period during which property taxes
13 shall be allocated for one additional extension of twenty years, which
14 extension shall commence upon the expiration of the original thirty-year
15 period, if on the first day of the twenty-year extension period the
16 established base year for the allocation of property taxes pursuant to
17 ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (3)(a)(II) OF THIS
18 SECTION is advanced forward by ten years and, subsequent to the
19 completion of the first ten years of the twenty-year extension, the base
20 year is advanced forward by one year for each additional year through the
21 completion of the twenty-year extension. The governing body may also
22 by ordinance extend the period during which sales taxes shall be allocated
23 for one additional extension of twenty years with no change to the
24 established sales tax base year. Notwithstanding any other provision of
25 ~~this subparagraph (IV)~~ SUBSECTION (3)(a)(IV), any extension authorized
26 pursuant to ~~this subparagraph (IV)~~ SUBSECTION (3)(a)(IV) may only be
27 considered by the governing body during the final ten years of the original

1 thirty-year period.

2 (B) In connection with an extension implemented pursuant to
3 ~~sub-subparagraph (A) of this subparagraph (IV)~~ SUBSECTION
4 (3)(a)(IV)(A) OF THIS SECTION, on an annual basis fifty percent of the
5 property taxes levied, or such greater amount as may be set forth in an
6 agreement negotiated by the municipality and the respective public
7 bodies, and allocated in accordance with the requirements of
8 ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (3)(a)(II) OF THIS
9 SECTION shall be paid into the special fund of the municipality and the
10 balance of such taxes shall be paid into the funds of the other public
11 bodies by or for which such taxes are collected. Not later than August 1
12 of each calendar year, the governing body shall certify to the county
13 assessor an itemized list of the property tax distribution percentages
14 attributable to the special fund of the municipality pursuant to this
15 ~~sub-subparagraph (B)~~ SUBSECTION (3)(a)(IV)(B) from the mill levies to
16 be certified by each public body. When certifying values to taxing entities
17 pursuant to sections 39-1-111 (5), 39-5-121 (2), and 39-5-128, ~~C.R.S.~~, the
18 assessor shall certify only the percentage of increment value attributable
19 to the special fund pursuant to this ~~sub-subparagraph (B)~~ SUBSECTION
20 (3)(a)(IV)(B) as certified by the governing body.

21 (V) (A) IF A GOVERNING BODY EXTENDS, PURSUANT TO
22 SUBSECTION (3)(a)(IV) OF THIS SECTION, THE PERIOD DURING WHICH A
23 PORTION OF THE PROPERTY TAXES MAY BE ALLOCATED TO THE SPECIAL
24 FUND OF THE MUNICIPALITY IN ACCORDANCE WITH THE REQUIREMENTS OF
25 SUBSECTION (3)(a)(II) OF THIS SECTION, THE GOVERNING BODY MAY, BY
26 ORDINANCE, EXTEND THE PERIOD DURING WHICH PROPERTY TAXES SHALL
27 BE ALLOCATED FOR ONE OR MORE ADDITIONAL TWENTY-YEAR PERIODS AS

1 SPECIFIED IN THIS SUBSECTION (3)(a)(V). THE GOVERNING BODY MUST
2 ADOPT A SEPARATE ORDINANCE FOR EACH ADDITIONAL TWENTY-YEAR
3 PERIOD IN ACCORDANCE WITH SUBSECTION (3)(a)(V)(C) OF THIS SECTION.
4 A TWENTY-YEAR EXTENSION FOR THE PERIOD DURING WHICH PROPERTY
5 TAXES SHALL BE ALLOCATED TO THE SPECIAL FUND OF THE MUNICIPALITY
6 COMMENCES UPON THE EXPIRATION OF THE PREVIOUS TWENTY-YEAR
7 EXTENSION PERIOD, WHETHER SUCH PERIOD WAS PURSUANT TO
8 SUBSECTION (3)(a)(IV) OF THIS SECTION OR PURSUANT TO THIS
9 SUBSECTION (3)(a)(V). ON THE FIRST DAY OF A TWENTY-YEAR EXTENSION
10 PERIOD PURSUANT TO THIS SUBSECTION (3)(a)(V), THE ESTABLISHED BASE
11 YEAR FOR THE ALLOCATION OF PROPERTY TAXES PURSUANT TO
12 SUBSECTION (3)(a)(II) OF THIS SECTION MUST BE ADVANCED FORWARD BY
13 ONE YEAR, AND THE ESTABLISHED BASE YEAR MUST BE ADVANCED
14 FORWARD FOR EACH ADDITIONAL YEAR THROUGH THE COMPLETION OF THE
15 TWENTY-YEAR EXTENSION.

16 (B) IN CONNECTION WITH AN EXTENSION IMPLEMENTED PURSUANT
17 TO THIS SUBSECTION (3)(a)(V), ON AN ANNUAL BASIS FIFTY PERCENT OF
18 THE PROPERTY TAXES LEVIED, OR A GREATER AMOUNT AS MAY BE SET
19 FORTH IN AN AGREEMENT NEGOTIATED BY THE MUNICIPALITY AND THE
20 RESPECTIVE PUBLIC BODIES, AND ALLOCATED IN ACCORDANCE WITH THE
21 REQUIREMENTS OF SUBSECTION (3)(a)(II) OF THIS SECTION, SHALL BE PAID
22 INTO THE SPECIAL FUND OF THE MUNICIPALITY AND THE BALANCE OF THE
23 TAXES SHALL BE PAID INTO THE FUNDS OF THE OTHER PUBLIC BODIES BY
24 OR FOR WHICH SUCH PROPERTY TAXES ARE COLLECTED. NOT LATER THAN
25 AUGUST 1 OF EACH CALENDAR YEAR, THE GOVERNING BODY SHALL
26 CERTIFY TO THE COUNTY ASSESSOR AN ITEMIZED LIST OF THE PROPERTY
27 TAX DISTRIBUTION PERCENTAGES ATTRIBUTABLE TO THE SPECIAL FUND OF

1 THE MUNICIPALITY PURSUANT TO THIS SUBSECTION (3)(a)(V)(B) FROM
2 THE MILL LEVIES TO BE CERTIFIED BY EACH PUBLIC BODY. WHEN
3 CERTIFYING VALUES TO TAXING ENTITIES PURSUANT TO SECTIONS
4 39-1-111 (5), 39-5-121 (2), AND 39-5-128, THE ASSESSOR SHALL CERTIFY
5 ONLY THE PERCENTAGE OF INCREMENT VALUE ATTRIBUTABLE TO THE
6 SPECIAL FUND PURSUANT TO THIS SUBSECTION (3)(a)(V)(B) AS CERTIFIED
7 BY THE GOVERNING BODY.

8 (C) BEFORE AUGUST 1 OF THE LAST YEAR OF A TWENTY-YEAR
9 EXTENSION PERIOD PURSUANT TO SUBSECTION (3)(a)(IV) OR (3)(a)(V)(A)
10 OF THIS SECTION, THE GOVERNING BODY MAY ADOPT AN ORDINANCE TO
11 EXTEND THE PERIOD DURING WHICH A PORTION OF PROPERTY TAX MAY BE
12 COLLECTED AND ALLOCATED TO THE SPECIAL FUND OF THE MUNICIPALITY
13 PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2024 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.