First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 09-0720.01 Bob Lackner **HOUSE BILL 09-1327**

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A BILL FOR AN ACT

CONCERNING MODIFICATIONS TO THE URBAN RENEWAL LAW TO ADDRESS IMPACTS TO SPECIFIED TAXING ENTITIES ARISING FROM THE USE OF TAX INCREMENT FINANCING MECHANISMS TO SUPPORT URBAN RENEWAL PROJECTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

In connection with the approval of an urban renewal plan or a modification to such plan:

! Exempts a city and county from existing statutory requirements to provide an urban renewal impact report

(report).

! Expands the entities to which an urban renewal plan or modification must be submitted to include the governing body of certain public bodies that impose ad valorem property taxes on any portion of the real property constituting an urban renewal area (taxing entities) and, in specified circumstances, additionally requires the taxing entities to be provided a copy of the report.

! Makes the deadline earlier for submitting the plan or modification prior to an initial hearing.

Adds to existing statutory requirements concerning the findings that must be made before the governing body of the municipality may approve an urban renewal plan:

! Whether the urban renewal authority (authority) or the municipality will adequately finance any additional taxing entity infrastructure as well as services required to serve development within the urban renewal area; and

! Any significant shortfalls in the projected revenues of the taxing entities for the period during which all or any portion of property taxes are paid into a special fund (fund) in connection with tax increment financing.

Exempts a city and county from the requirement to make these additional findings.

In connection with the excess of any payment of property taxes paid into the fund in connection with tax increment financing:

! In the absence of an intergovernmental agreement (agreement), requires that a specified percentage of the property taxes allocated to the fund be distributed to the fund and a specified percentage be allocated to all of the taxing entities in the urban renewal area on a pro rata basis as specified in the act.

! In the alternative to the provisions of the act specifying a particular allocation of the property tax, authorizes the authority and any taxing entity located within the urban renewal area to enter into an agreement. Specifies that, under such agreement, the parties may provide, as they deem appropriate, for the allocation of the property taxes between the authority and any one or more taxing entities and the year in which any such allocation would commence or end. Applies the provisions of the act specifying a particular allocation of the property tax to any taxing entity that does not elect to enter into an agreement with the authority.

Repeals existing statutory provisions creating an arbitration process for the purpose of adjudicating objections by a county to an urban

renewal plan with county impacts.

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

SECTION 1. 31-25-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-25-103. Definitions. As used in this part 1, unless the context otherwise requires:

(7.7) "TAXING ENTITY" MEANS A PUBLIC BODY THAT IS IMPOSING AD VALOREM PROPERTY TAXES ON ANY PORTION OF THE REAL PROPERTY CONSTITUTING AN URBAN RENEWAL AREA; EXCEPT THAT "TAXING ENTITY" SHALL NOT INCLUDE THE MUNICIPALITY IN WHICH AN AUTHORITY HAS BEEN ESTABLISHED.

SECTION 2. The introductory portion to 31-25-107 (3.5) (a) and 31-25-107 (4) (h), Colorado Revised Statutes, are amended, and the said 31-25-107 (3.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

31-25-107. Approval of urban renewal plans by local governing body. (3.5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (3.5), at least ~~thirty~~ NINETY days prior to the hearing on an urban renewal plan or a substantial modification to ~~such~~ THE plan, the governing body or the authority shall submit ~~such~~ THE plan or modification to the ~~board of county commissioners,~~ GOVERNING BODY OF THE TAXING ENTITY and, if property taxes collected as a result of the ~~county~~ TAXING ENTITY levy will be utilized, the governing body or the authority shall also submit an urban renewal impact report, which shall include, at a minimum, the following information concerning the impact of ~~such~~ THE plan:

(c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A CITY AND COUNTY SHALL NOT BE REQUIRED TO SUBMIT AN URBAN RENEWAL IMPACT REPORT SATISFYING THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (3.5).

(4) Following such hearing, the governing body may approve an urban renewal plan if it finds that:

(h) The authority or the municipality will adequately finance, or that agreements are in place to finance, any additional ~~county~~ TAXING ENTITY infrastructure and services required to serve development within the urban renewal area AND ANY SIGNIFICANT SHORTFALLS IN THE PROJECTED REVENUES OF THE TAXING ENTITIES, ASSUMING PROJECTED INCREASES IN THE DEMAND FOR PUBLIC SERVICES AND INFRASTRUCTURE WITHIN THE TERRITORIAL BOUNDARIES OF THE TAXING ENTITY, for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a ~~county~~ TAXING ENTITY are paid to the authority. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A CITY AND COUNTY SHALL NOT BE REQUIRED TO MAKE THE FINDINGS SPECIFIED IN THIS PARAGRAPH (h).

SECTION 3. The introductory portion to 31-25-107 (9) (a) and 31-25-107 (9) (a) (II), Colorado Revised Statutes, are amended, and the said 31-25-107 (9) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

31-25-107. Approval of urban renewal plans by local governing body. (9) (a) ~~Notwithstanding any law to the contrary~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, any urban renewal plan, as originally approved or as later modified pursuant to this part 1,

may contain a provision that taxes, if any, levied after the effective date of the approval of such urban renewal plan upon taxable property in an urban renewal area each year or that municipal sales taxes collected within said area, or both such taxes, by or for the benefit of any public body shall be divided for a period not to exceed twenty-five years after the effective date of adoption of such a provision, as follows:

(II) SUBJECT TO THE PROVISIONS OF PARAGRAPH (a.5) OF THIS SUBSECTION (9), that portion of said property taxes or all or any portion of said sales taxes, or both, in excess of such amount shall be allocated to and, when collected, paid into a special fund of the authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, an urban renewal project, or to make payments under an agreement executed pursuant to subsection (11) of this section. Any excess municipal sales tax collections not allocated pursuant to this subparagraph (II) shall be paid into the funds of the municipality. Unless and until the total valuation for assessment of the taxable property in an urban renewal area exceeds the base valuation for assessment of the taxable property in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all of the taxes levied upon the taxable property in such urban renewal area shall be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in an urban renewal area exceed the base year municipal sales tax collections in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all such sales tax collections shall be paid into the funds of the municipality. When such bonds, loans, advances, and

indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property or the total municipal sales tax collections, or both, in such urban renewal area shall be paid into the funds of the respective public bodies.

(a.5) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION:

(A) IN THE ABSENCE OF AN INTERGOVERNMENTAL AGREEMENT AS SPECIFIED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), COMMENCING FIVE YEARS FROM THE DATE OF THE ADOPTION OF THE URBAN RENEWAL PLAN, FIFTY PERCENT OF THE PROPERTY TAXES ALLOCATED TO THE SPECIAL FUND PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (9) SHALL BE DISTRIBUTED TO THE FUND AND FIFTY PERCENT SHALL BE ALLOCATED TO ALL OF THE TAXING ENTITIES IN THE URBAN RENEWAL AREA ON A PRO RATA BASIS IN THE PROPORTION THAT THE AMOUNT OF TAXES LEVIED BY EACH SUCH ENTITY BEARS TO THE TOTAL PROPERTY TAX LEVIED BY ALL SUCH ENTITIES.

(B) IN THE ALTERNATIVE TO THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I), THE AUTHORITY AND ANY TAXING ENTITY LOCATED WITHIN THE URBAN RENEWAL AREA MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT. UNDER SUCH AGREEMENT, THE PARTIES MAY PROVIDE, AS THEY DEEM APPROPRIATE, FOR THE ALLOCATION OF THE PROPERTY TAXES BETWEEN THE AUTHORITY AND ANY ONE OR MORE TAXING ENTITIES IF THE ALLOCATION IS DIFFERENT THAN THE ALLOCATION SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I); THE YEAR IN WHICH ANY SUCH ALLOCATION WOULD COMMENCE OR END; AND ANY OTHER MATTERS AGREED UPON BY THE PARTIES. THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS

SUBPARAGRAPH (I) SHALL APPLY TO ANY TAXING ENTITY THAT DOES NOT ELECT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE AUTHORITY PURSUANT TO THIS SUB-SUBPARAGRAPH (B).

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5) SHALL NOT APPLY TO A CITY AND COUNTY.

SECTION 4. Repeal. 31-25-107 (12), Colorado Revised Statutes, is repealed.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to urban renewal plans either submitted or substantially or materially modified on or after the effective date of this act.