A BILL FOR AN ACT

Concerning modifications to statutory provisions governing urban redevelopment to promote the equitable financial contribution among affected public bodies in connection with urban redevelopment projects allocating tax revenues.

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 modifies statutory provisions governing an urban renewal authority (URA) in the following respects:
Section 1 of the bill modifies the number of commissioners of a URA. Specifically, the bill deletes the requirement that a URA have an odd number of commissioners and allows a URA to have up to 13 commissioners.

In all cases where an urban renewal plan (plan) managed by the URA includes an allocation of property tax increment generated by the mill levy imposed by one or more counties, except where the municipality is a city and county, section 1 of the bill requires one commissioner to be appointed by agreement of the boards of county commissioners of each county whose property taxes are subject to allocation under any such plan. Where any plan managed by the authority includes an allocation of property tax increment generated by the mill levy imposed by any special district or school district, one such commissioner must also be a board member of a special district whose property taxes are subject to allocation under any such plan, selected by agreement of such special districts whose property taxes are subject to allocation under any such plan, and one such commissioner must also be an elected member of a board of education of a school district, selected by agreement of the school districts whose property taxes are subject to allocation under any such plan. This section of the bill also specifies the time by which such representational appointments must be made and the terms of such appointments.

Section 4 of the bill imposes similar representational requirements when the governing body of a municipality designates itself as the URA.

Under current law, if the property taxes collected as a result of the county levy will be used in the plan, the governing body of the municipality or the URA is required to submit a report discussing the impact to the county (report). Section 2 of the bill clarifies that the report is required to be sent to the board of county commissioners and also to the governing body of each taxing entity for which the revenues from its general fund mill levy is proposed to be allocated under the plan. The report is required to be developed in consultation with such board as well any such governing bodies. This section of the bill also extends the time by which the report must be initially submitted and requires the report to address impacts on districts in addition to those of the county.

Section 2 of the bill clarifies that the provisions in a plan allowing for tax increment financing apply with respect to
the property taxes of specifically designated public bodies. Section 2 of the bill also requires that, in the case of the special fund established to collect the revenues from certain taxes allocated to the URA upon the payment of indebtedness, all funds remaining in the special fund that have not previously been rebated and that originated as property tax increment generated based on the mill levy of a taxing body within the boundaries of the urban renewal area must be repaid to each taxing body based on requirements specified in the bill.

Before any urban renewal plan containing any tax allocation provisions that allocates any taxes of any public body other than the municipality may be approved by the municipal governing body, section 2 of the bill also requires the governing body to notify the board of county commissioners of each county and the governing boards of each other public body whose property tax revenues would be allocated under such proposed plan. Representatives of the municipal governing body and each board of county commissioners and each public body are then required to 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. Any allocated shared tax revenues governed by any agreement are limited to all or any portion of the taxes levied upon taxable property by the public body within the area covered by the urban renewal plan in addition to any sales tax revenues generated within the area covered by the urban renewal plan by the imposition of the sales tax of the municipality and any other public body.

In the absence of an agreement between the municipality and any taxing entity, section 2 of the bill prohibits the percentage of property tax increment revenues of any public body that may be allocated to the URA from exceeding the percentage of municipal sales tax increment revenues allocated to the URA under the provisions of the urban renewal plan. The bill specifies the manner in which the percentage of municipal sales tax increment revenue allocated to the URA is to be determined as well as the determination of the amount of any moneys that the municipality pays to, contributes to, or invests in the URA for the project.

Be it enacted by the General Assembly of the State of Colorado:
SECTION 1. In Colorado Revised Statutes, 31-25-104, amend (2) (a) and (2) (b); and add (2.5) as follows:

31-25-104. Urban renewal authority. (2) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (2.5) OF THIS SECTION, an authority shall consist CONSISTS of any odd number of THIRTEEN commissioners, which shall be not less than five nor more than eleven each MUST be appointed by the mayor, who shall designate the chairman CHAIRPERSON for the first year. Such IN ORDER TO REPRESENT THE COLLECTIVE INTERESTS OF THE COUNTY AND ALL TAXING BODIES LEVYING A MILL LEVY IN ONE OR MORE URBAN RENEWAL AREAS MANAGED BY THE AUTHORITY, REFERRED TO IN THIS PART 1 AS AN URBAN RENEWAL AUTHORITY AREA, OTHER THAN THE MUNICIPALITY, ONE SUCH COMMISSIONER ON THE AUTHORITY MUST BE APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE TERRITORIAL BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA ARE LOCATED, ONE SUCH COMMISSIONER MUST ALSO BE A BOARD MEMBER OF A SPECIAL DISTRICT SELECTED BY AGREEMENT OF THE SPECIAL DISTRICTS LEVYING A MILL LEVY WITHIN THE BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA, AND ONE COMMISSIONER MUST ALSO BE AN ELECTED MEMBER OF A BOARD OF EDUCATION OF A SCHOOL DISTRICT LEVYING A MILL LEVY WITHIN THE BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA. IF THE URBAN RENEWAL AUTHORITY AREA IS LOCATED WITHIN THE BOUNDARIES OF MORE THAN ONE COUNTY, THE APPOINTMENT IS MADE BY AGREEMENT OF ALL OF THE COUNTIES IN WHICH THE BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA ARE LOCATED.

(II) IF NO COUNTY, SPECIAL DISTRICT, OR SCHOOL DISTRICT APPOINTS A COMMISSIONER TO THE AUTHORITY, THEN THE COUNTY,
SPECIAL DISTRICT, OR SCHOOL DISTRICT APPOINTMENT REMAINS VACANT
UNTIL SUCH TIME AS THE APPLICABLE APPOINTING AUTHORITY MAKES THE
APPOINTMENT PURSUANT TO THIS PARAGRAPH (a).

(III) IF THE APPOINTING COUNTY IS A CITY AND COUNTY, THE
REQUIREMENTS OF THIS PARAGRAPH (a) PERTAINING TO COUNTY
REPRESENTATION ON THE AUTHORITY BOARD NEED NOT BE SATISFIED.

(IV) ALL MAYORAL appointments and designation shall be CHAIR
DESIGNATIONS ARE subject to approval by the governing body OF THE
MUNICIPALITY WITHIN WHICH THE AUTHORITY HAS BEEN ESTABLISHED.
Not more than one of the commissioners APPOINTED BY THE MAYOR may
be an official of the municipality.

(V) In the event that an official of the municipality is appointed
as commissioner of an authority, acceptance or retention of such
appointment shall not be IS NOT deemed a forfeiture of his OR HER office,
or incompatible therewith, or AND DOES NOT affect his OR HER tenure or
compensation in any way. The term of office of a commissioner of an
authority who is a municipal official shall IS not be affected or curtailed
by the expiration of the term of his OR HER municipal office.

(b) The commissioners who are first appointed shall MUST be
designated by the mayor to serve for staggered terms so that the term of
at least one commissioner will expire each year. Thereafter, the term of
office shall be IS five years. A commissioner shall hold HOLD office until
his OR HER successor has been appointed and has qualified. Vacancies
other than by reason of expiration of terms shall MUST be filled by the
mayor for the unexpired term; EXCEPT THAT, IN THE CASE OF A
COMMISSIONER ON THE AUTHORITY WHO HAS BEEN APPOINTED BY THE
BOARD OF COMMISSIONERS OF A COUNTY PURSUANT TO PARAGRAPH (a) OF
THIS SUBSECTION (2), A VACANCY ON THE AUTHORITY BOARD FOR THE BALANCE OF THE UNEXPIRED TERM MUST BE FILLED BY THE BOARD OF COMMISSIONERS OF THE COUNTY THAT MADE THE ORIGINAL APPOINTMENT, A VACANCY OF THE SPECIAL-DISTRICT APPOINTED SEAT MUST BE FILLED BY AGREEMENT OF THE AFFECTED SPECIAL DISTRICTS, AND A VACANCY OF THE SCHOOL-DISTRICT APPOINTED SEAT MUST BE FILLED BY AGREEMENT OF THE AFFECTED SCHOOL DISTRICTS. A majority of the commissioners shall constitute a quorum. The mayor shall file with the clerk a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

(2.5) WHEN THE GOVERNING BODY OF A MUNICIPALITY DESIGNATES ITSELF AS THE AUTHORITY OR TRANSFERS AN EXISTING AUTHORITY TO THE GOVERNING BODY PURSUANT TO SECTION 31-25-115 (1), AN AUTHORITY CONSISTS OF THE SAME NUMBER OF COMMISSIONERS AS THE NUMBER OF MEMBERS OF THE GOVERNING BODY. IN ADDITION, IN ORDER TO REPRESENT THE COLLECTIVE INTERESTS OF THE COUNTY AND ALL TAXING BODIES LEVYING A MILL LEVY WITHIN THE BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA OTHER THAN THE MUNICIPALITY, ONE ADDITIONAL COMMISSIONER ON THE AUTHORITY MUST BE APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE TERRITORIAL BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA ARE LOCATED, ONE ADDITIONAL COMMISSIONER MUST ALSO BE A BOARD MEMBER OF A SPECIAL DISTRICT SELECTED BY AGREEMENT OF THE SPECIAL
DISTRICTS LEVYING A MILL LEVY WITHIN THE BOUNDARIES OF THE URBAN
RENEWAL AUTHORITY AREA, AND ONE ADDITIONAL COMMISSIONER MUST
ALSO BE AN ELECTED MEMBER OF A BOARD OF EDUCATION OF A SCHOOL
DISTRICT LEVYING A MILL LEVY WITHIN THE BOUNDARIES OF THE URBAN
RENEWAL AUTHORITY AREA. IF THE NUMBER OF MEMBERS OF THE
GOVERNING BODY CAUSES THE AUTHORITY TO HAVE AN EVEN NUMBER OF
COMMISSIONERS, THE MAYOR SHALL APPOINT AN ADDITIONAL
COMMISSIONER TO RESTORE AN ODD NUMBER OF COMMISSIONERS TO THE
AUTHORITY. AS APPLICABLE, THE APPOINTMENT OF THE COUNTY, SPECIAL
DISTRICT, AND SCHOOL DISTRICT REPRESENTATIVES ON THE AUTHORITY
PURSUANT TO THIS SUBSECTION (2.5) MUST BE MADE IN ACCORDANCE
WITH THE PROCEDURES SPECIFIED IN SECTION 31-25-104 (2).

SECTION 2. In Colorado Revised Statutes, 31-25-107, amend
(9) (a) introductory portion and (9) (a) (II); and add (9) (i) and (9.5) as
follows:

31-25-107. Approval of urban renewal plans by local
governing body. (9) (a) Notwithstanding any law to the contrary, any
urban renewal plan, as originally approved or as later modified pursuant
to this part 1, may contain a provision that THE PROPERTY taxes OF
SPECIFICALLY DESIGNATED PUBLIC BODIES, 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
THE DESIGNATED public body shall MUST be divided for a period not to
exceed twenty-five years after the effective date of adoption of such a
provision, as follows:

(II) That portion of said property taxes or all or any portion of said
sales taxes, or both, in excess of the amount of property taxes or sales
taxes paid into the funds of each such public body in accordance with the
requirements of subparagraph (I) of this paragraph (a) must 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, the
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
or property tax collections not allocated pursuant to this subparagraph
(II) must be paid into the funds of the municipality or other
taxing entity, as applicable. 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
must 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 must 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 must
be paid into the funds of the respective public bodies, and all
MONEYS REMAINING IN THE SPECIAL FUND ESTABLISHED PURSUANT TO
THIS SUBPARAGRAPH (II) THAT HAVE NOT PREVIOUSLY BEEN REBATED AND
THAT ORIGINATED AS PROPERTY TAX INCREMENT GENERATED BASED ON
THE MILL LEVY OF A TAXING BODY, OTHER THAN THE MUNICIPALITY,
WITHIN THE BOUNDARIES OF THE URBAN RENEWAL AREA MUST BE REPAID
TO EACH TAXING BODY BASED ON THE PRO RATA SHARE OF THE PRIOR
YEAR'S PROPERTY TAX INCREMENT ATTRIBUTABLE TO EACH TAXING
BODY'S CURRENT MILL LEVY IN WHICH PROPERTY TAXES WERE DIVIDED
PURSUANT TO THIS SUBSECTION (9). ANY MONEYS REMAINING IN THE
SPECIAL FUND NOT GENERATED BY PROPERTY TAX INCREMENT ARE
EXCLUDED FROM ANY SUCH REPAYMENT REQUIREMENT.
NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY ADDITIONAL
REVENUES THE MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR SCHOOL
DISTRICT RECEIVES EITHER BECAUSE THE VOTERS HAVE AUTHORIZED THE
MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR SCHOOL DISTRICT TO
RETAIN AND SPEND SAID MONEYS PURSUANT TO SECTION 20 (7) (d) OF
ARTICLE X OF THE STATE CONSTITUTION SUBSEQUENT TO THE CREATION
OF THE SPECIAL FUND PURSUANT TO THIS SUBPARAGRAPH (II) OR AS A
RESULT OF AN INCREASE IN THE PROPERTY TAX MILL LEVY APPROVED BY
THE VOTERS OF THE MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR
SCHOOL DISTRICT SUBSEQUENT TO THE CREATION OF THE SPECIAL FUND,
TO THE EXTENT THE TOTAL MILL LEVY OF THE MUNICIPALITY, COUNTY,
SPECIAL DISTRICT, OR SCHOOL DISTRICT EXCEEDS THE RESPECTIVE MILL
LEVY IN EFFECT AT THE TIME OF APPROVAL OR SUBSTANTIAL
MODIFICATION OF THE URBAN RENEWAL PLAN, ARE NOT INCLUDED IN THE
AMOUNT OF THE INCREMENT THAT IS ALLOCATED TO AND, WHEN
COLLECTED, PAID INTO THE SPECIAL FUND OF THE AUTHORITY.
(i) Within the twelve-month period prior to the effective date of the approval or modification of the urban renewal plan requiring the allocation of moneys to the authority pursuant to paragraph (a) of subsection (9) of this section, the municipality, county, special district, or school district is entitled to the reimbursement of any moneys that such municipality, county, special district, or school district pays to, contributes to, or invests in the authority for the project. The reimbursement is to be paid from the special fund of the authority established pursuant to paragraph (a) of this subsection (9).

(9.5) (a) Before any urban renewal plan containing any tax allocation provisions that allocates any taxes of any public body other than the municipality may be approved by the municipal governing body pursuant to subsection (4) of this section, the governing body shall notify the board of county commissioners of each county and the governing boards of each other public body whose property tax revenues would be allocated under such proposed plan. Representatives of the municipal governing body and each board of county commissioners and each public body 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. 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, OR THROUGH A JOINT AGREEMENT AMONG THE MUNICIPALITY, THE AUTHORITY, AND ANY PUBLIC BODY THAT HAS CHOSEN TO ENTER THAT AGREEMENT. ANY SUCH ALLOCATED SHARED TAX REVENUES GOVERNED BY ANY AGREEMENT ARE LIMITED TO ALL OR ANY PORTION OF THE TAXES LEVIED UPON TAXABLE PROPERTY BY THE PUBLIC BODY WITHIN THE AREA COVERED BY THE URBAN RENEWAL PLAN IN ADDITION TO ANY SALES TAX REVENUES GENERATED WITHIN THE AREA COVERED BY THE URBAN RENEWAL PLAN BY THE IMPOSITION OF THE SALES TAX OF THE MUNICIPALITY AND ANY OTHER PUBLIC BODY.

(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, requires any filing with or by the public body, requires or permits consent from the public body, 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.

(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 and any public body may agree, there is no agreement between the municipal governing body and any public body as described in paragraph (a) of this subsection (9.5), the municipal governing body and any applicable public body are
SUBJECT TO THE PROVISIONS AND LIMITATIONS OF PARAGRAPH (d) OF THIS
SUBSECTION (9.5).

(d) In an absence of an agreement between the
municipality 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 urban renewal project
costs among the municipality and all other taxing entities
whose taxes will be allocated pursuant to an urban renewal
plan. In making a determination of the appropriate allocation,
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 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
of costs 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. Notwithstanding any other provision of law, no
payments may be made 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) 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).

SECTION 3. In Colorado Revised Statutes, 31-25-115, add (1.5)
as follows:

31-25-115. Transfer - abolishment. (1.5) WHEN THE GOVERNING
BODY OF A MUNICIPALITY DESIGNATES ITSELF AS THE AUTHORITY OR
TRANSFERS AN EXISTING AUTHORITY TO THE GOVERNING BODY PURSUANT
TO SUBSECTION (1) OF THIS SECTION, ONE SUCH COMMISSIONER ON THE
AUTHORITY MUST BE APPOINTED BY THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY IN WHICH THE TERRITORIAL BOUNDARIES
OF THE URBAN RENEWAL AUTHORITY AREA ARE LOCATED, ONE SUCH
COMMISSIONER MUST ALSO BE A BOARD MEMBER OF A SPECIAL DISTRICT
SELECTED BY AGREEMENT OF THE SPECIAL DISTRICTS LEVYING A MILL
LEVY WITHIN THE BOUNDARIES OF THE URBAN RENEWAL AUTHORITY
AREA, AND ONE COMMISSIONER MUST ALSO BE AN ELECTED MEMBER OF A
BOARD OF EDUCATION OF A SCHOOL DISTRICT LEVYING A MILL LEVY
WITHIN THE BOUNDARIES OF THE URBAN RENEWAL AUTHORITY AREA.
APPOINTMENTS MADE PURSUANT TO THIS SUBSECTION (1.5) MUST BE
MADE IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION
31-25-104 (2).

SECTION 4. Act subject to petition - effective date -
applicability. (1) This act takes effect at 12:01 a.m. on the day following
the expiration of the ninety-day period after final adjournment of the
general assembly (August 5, 2015, if adjournment sine die is on May 6,
2015); except that, if a referendum petition is filed pursuant to section 1
(3) of article V of the state constitution against this act or an item, section,
or part of this act within such period, then the act, item, section, or part
will not take effect unless approved by the people at the general election
to be held in November 2016 and, in such case, will take effect on the
date of the official declaration of the vote thereon by the governor.

(2) This act applies to:

(a) Municipalities, urban renewal authorities and any urban
renewal plans created on or after January 1, 2016; or

(b) Urban renewal plan amendments or modifications adopted on
or after January 1, 2016, that include any of the following: Any addition
of an urban renewal project; an alteration in the boundaries of an urban
renewal area; any change in the mill levy or the sales tax component of
any such plan, except where such changes or modifications are made in
connection with refinancing any outstanding bonded indebtedness; or an
extension of an urban renewal plan or the duration of a specific urban
renewal project regardless of whether such extension or related changes
in duration of a specific urban renewal project require actual alteration of
the terms of the urban renewal plan.