



ISSUE BRIEF

Colorado State Fire Chiefs Association

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Urban Renewal Authorities and Tax Increment Financing: Impacts on Fire Protection Districts

Colorado law allows municipalities to establish Urban Renewal Authorities (URAs) to finance public improvements such as streets, sewers, sidewalks, and other infrastructure related to residential, commercial, or industrial development; to redevelop slum or blighted areas; and to fund private economic development. The primary source of funding for urban renewal projects in Colorado is Tax Increment Financing (TIF). TIF is a method whereby a portion of the property taxes levied by all taxing authorities within an urban renewal area are reallocated to the municipality that is undertaking the urban renewal project.

The problem arises when a taxing entity, such as a fire district, loses that increased revenue, but is expected to meet the increased service demands of the revitalized community. This is particularly problematic when the district must make capital or operating improvements (new stations, equipment or personnel) in order to serve the developed or redeveloped area.

The Colorado State Fire Chiefs Association (CSFCA) has gone on record in support of the creation of URAs, and in general, the use of TIF for their traditional intended purpose of eliminating slum and blighted areas which constitute a threat to public health, safety, and welfare. However, in light of the ever-increasing use of these tools by municipalities, the CSFCA has joined URA and TIF reform efforts in order to address the impacts they create for fire protection districts. Most notably, during the 2008 and 2009 sessions, the CSFCA supported bills that would have exempted the property tax revenue of emergency services districts from TIF; however, both bills failed.¹

This Issue Brief provides a basic overview of URAs and TIF and explains why they are a concern to fire protection districts.

What is TIF?

Tax Increment Financing (TIF) is a method of subsidizing private development projects that was originally intended to help redevelop areas that are deemed “blighted” or “distressed.” TIF allows municipal governments to allocate the tax revenues of all local governments, including counties, schools and special districts, to subsidize projects without raising their own taxes, providing tax abatements or spending municipal sales tax revenue.

¹ HB08-1163 by Rep. Sonnenberg and Sen. Bacon and HB09-1013 by Rep. Sonnenberg.

How Does it Work?²

In general, cities create TIFs by first designating a district for redevelopment. Since the area in the district is slated for redevelopment, property values will likely increase when the redevelopment occurs and therefore property tax revenues will go up, based on higher assessments. When this increase occurs, the property tax revenue from the TIF district is split into two streams. The first stream results from the original property values before the redevelopment. This amount of tax continues to go to the city, county, school district and other taxing entities as before. The second stream consists of the increase in taxes resulting from the new development and higher property values. This is referred to as the “tax increment.” Money from this stream is paid into a special fund used to subsidize the redevelopment in the district. This diversion of tax payments continues until the TIF district financing expires.

In Colorado, cities can employ TIF through URAs (C.R.S §31-25-101 et seq.) and Downtown Development Authorities (C.R.S §31-25-801 et seq.). Prior to implementing a TIF plan, a municipality must designate an area as “blighted”. A blighted area is an area that “substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare.”

Areas can satisfy this definition if at least four of eleven factors are present. These factors include a predominance of defective inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, unusual topography or inadequate public improvements or utilities and/or environmental contamination of buildings or property. Following a public hearing process, if a municipality finds that blight exists, a certificate outlining the municipality’s findings and declaration of an urban renewal authority is filed with the Department of Local Affairs.

What is the “Incremental Tax?”

Once the renewal plan is approved, the county assessor will determine the total taxable assessed value of real and personal property within the area as of the date of the last certification of value. Thereafter, for as long as the bonds are outstanding, which can be 25 years, or 30 years in case of a DDA, that certified assessed valuation is known as the “base valuation.” With a few adjustments, for instance when a biennial general reassessment reflects a difference in base values, or a when a revised assessment rate is mandated by the Gallagher amendment, that base valuation is the amount upon which each taxing entity, i.e., special district, overlapping the urban renewal area, will apply its mill levy. Consequently, the future tax revenue to the special district will be only that generated by its mill levy times the base valuation of the area.³

² Adapted from TIF: A Primer on Tax Increment Financing (TIF), Colorado Counties, Inc. (CCI) Legislative Report, January 26, 2009

³ Tax Increment Financing: Playing the Development Game on Other People’s Money, by J. Evan Goulding and Jason Wolfe, Special District Association (SDA) Newsletter, January 2005

How Fire Districts Are Impacted by TIF

As mentioned above, URAs use TIF by tapping into taxes levied by “any public body” on properties residing within the authority. Public bodies include counties, municipalities and/or other political subdivisions. Property tax receipts from these taxing entities can be collected for up to 25 years (up to 50 years in a DDA) and must be deposited into a special fund to meet bond obligations. Municipal sales tax revenues generated within the authority may, but are not required to, be used for TIF.

The impact of TIF on overlapping taxing entities varies considerably by the type of entity. In the case of school districts, they are essentially held harmless from TIF losses as their losses are “backfilled” by the state in accordance with the School Finance Act. Also, the impacts on some types of Title 32 Special Districts are minimized because they are more reliant on fees, tolls, and other charges than they are on property taxes. Furthermore, certain types of districts can refuse to provide service to an area if it finds it to be infeasible, impracticable, or undesirable for the good of the entire district. Counties are able to recoup some of the loss of property tax revenue through sales taxes generated in the URA.

Fire protection districts, on the other hand, rely almost exclusively on property taxes to fund capital improvements and operating expenses,³ and there is no statutory provision for a fire protection district to refuse to provide service, other than to exclude the area from the district.

The impact of TIF on fire protection districts varies considerably by what is included in URA. The provision of fire and related emergency services is highly dependent upon having the proper deployment of resources, i.e. adequately located fire stations, housing the proper type of apparatus (engines, aerial apparatus, medic units), staffed with sufficient personnel. The sufficiency of this deployment of resources is heavily influenced by the nature of the risk being protected and the demand for service. For example, high density multi-family developments typically have a much greater demand on the fire protection infrastructure than does a low density office complex.

With this in mind, in cases where a URA is created for the traditional purpose of redeveloping a slum or blighted area, and the proposed redevelopment will consist of essentially the same type of occupancies as previously existed, and the fire protection infrastructure already exists to serve the redeveloping area, the use of TIF to fund the URA will likely have little adverse impact on the fire protection district. However, in cases where an urban renewal area includes properties already proposed for development, such as vacant land that abuts or surrounds existing development, for which the fire protection district has planned for or already made capital facility and equipment investments to serve, it is likely that the fire protection district is relying on the tax increment to help pay for these improvements, as well as the inflationary increases in operating expenditures.

³ C.R.S. § 32-1-1002 (1) (e) limits the fees and charges that can be assessed by a fire protection district to ambulance or emergency medical services, extrication, rescue, and inspection services.

These impacts are even more pronounced in situations where URAs and TIF are utilized for the development of agricultural lands or greenfields, especially when these are located in areas of the district where no fire protection infrastructure exists.

The Impact of TIF for Greenfield Development

The controversy surrounding the use of the URA and TIF tools for development of “greenfields” extends far beyond the impact on fire protection districts to the extent that many question the appropriateness of using these tools for this purpose. One reason this practice is so controversial is that the proposed development would be built upon property that presently generates little tax revenue and any increase in tax revenue would be diverted into a tax increment financing fund. This “increment” thus would leave fire protection districts without funding from the developed area that is necessary to provide fire and related emergency services.

Example of Impact⁴

Consider the case of a 5 acre parcel of “Greenfield” with an actual value of \$375,000 (assessed value of \$108,750). A 7.687 mill levy⁵ would generate \$836 annually for the fire district, and would typically require very little in terms of fire and emergency services.

If a “big box store” came in on that property through the normal development process and the actual value of the land and improvements increases to \$9 million (\$2,610,000 assessed value), the fire protection district would receive \$20,063 annually in property taxes to provide for needed capital improvements and meet the increased service demands created.

However, if a “big box store” came in on that property through a URA and TIF, and the value increases to \$9 million, the fire district would only receive the property taxes off the base value, or \$836 annually, and the “increment” of \$19,227 annually would go to the URA. Over the course of the 25 year life of the URA, the fire district could lose up to \$480,668 in property tax revenue from this one parcel. This would leave the fire district without the ability to provide for needed capital improvements and increased operational costs, without shifting the burden to taxpayers of the district outside the URA.

On average, the portion of the total mill levy for a tax district attributable to fire protection districts is 8.6%.⁶ The remaining property tax burden for an area is made up from the mill levies for the county,

⁴ This example does not take into consideration the taxable value of personal property, nor does it consider increases or decreases in base valuation due to biennial reassessments. The statute provides that upon a general reassessment of property, the assessment roll is adjusted proportionately every two years between the Base Assessed Valuation and the TIF Assessed Valuation so that any increases in assessed value that do not result from new taxable construction after the Plan is approved are shared by URA and the taxing bodies.

⁵ A levy of 7.687 mills represents the median 2008 mill levy for the 71 fire protection districts located in Adams, Jefferson, Arapahoe, Douglas, Weld and Larimer Counties.

⁶ Fire Protection District Percentage of Total Mill Levies, Colorado State Fire Chiefs Association, October 2009. See: http://www.colofirechiefs.org/docs/2009/CSFCA_Memo_101509.pdf

municipality, school district, and other special districts and taxing entities (on average, school districts account for between 47 to 60% of the total mill levy in a taxing district).

The following example illustrates the total mill levy for a hypothetical tax district with a URA financed by TIF. The revenue calculations are based on the previous example of a “big box” development.

Total Mill Levies & Tax Revenue Example

Taxing Authority	Mill Levy	% of Total	Tax Revenue (on \$108,750 AV)	Tax Revenue (on \$2,610,000 AV)	TIFF Revenue to URA
County	23.000	25.6%	\$2,501.25	\$60,030.00	\$57,528.75
School District	46.000	51.2%	\$5,002.50	\$120,060.00	\$115,057.50
Municipality	9.000	10.0%	\$978.75	\$23,490.00	\$22,511.25
Water & Sanitation Dist.	1.600	1.8%	\$174.00	\$4,176.00	\$4,002.00
Library District	2.500	2.8%	\$271.88	\$6,525.00	\$6,253.13
Fire Protection District	7.687	8.6%	\$835.96	\$20,063.07	\$19,227.11
Total Mill Levies	89.787	100.0%	\$9,526.50	\$228,636.00	\$219,109.50

In some cases fire protection districts have been able to negotiate for a contractual payment similar to a “payment in lieu of taxes (PILT)” from developers or URAs to offset needed capital improvements and increasing service costs. However, since fire protection districts have no standing in the URA process, this is more likely the exception instead of the rule. Furthermore, in many cases, the negotiated payments are less than are needed to address the impact. Thus, the fire protection district must shift the burden of providing service to the new development (or redevelopment) to property owners outside the URA.

How Other States Address TIF Impact on Fire Protection Districts

Other states have recognized the impact of TIF on fire protection districts and have acted to reduce or eliminate this impact. At least two states (Indiana, Kentucky) exempt fire protection district revenues from the calculation of TIF revenue.⁷ Arkansas prohibits TIF from including property taxes levied for a fireman's relief and pension fund or policeman's relief and pension fund.⁸ The State of Washington requires that fire protection districts specifically agree to participate in the urban renewal project for the project to proceed.⁹ The laws of Georgia, Louisiana, Maryland, and South Carolina are even broader in that they require consent (Georgia, Louisiana, and South Carolina) or an intergovernmental agreement (Maryland) before including any taxing entity, other than the creating entity, in TIF.¹⁰

⁷ IC 36-7-14-1.5 and KRS 65.680 (20), (21) and (27).

⁸ Ark. Code Ann. § 14-168-301 (18) (b) (iii)

⁹ Wash. Rev. Code § 39.89.030. Washington law further requires that taxing districts that, in the aggregate, levy at least seventy-five percent of the regular property tax within the increment area must approve the TIF.

¹⁰ Ga. Code Ann. § 36-44-8, La. Stat. Ann. §8011, Md. Code §41-14-206, and S.C. Code Ann. §31-6-80

Missouri law provides that emergency services districts are entitled to reimbursement from the TIF fund in the amount of between fifty and one hundred percent of the district's tax increment.¹¹ The State of California has a formal process for addressing the impacts of TIF on fire protection districts, which includes notice, public hearing, and consideration of means “to alleviate or eliminate the financial burden or detriment”.¹²

In 2008, a bill was introduced in the Illinois General Assembly to address the impact of TIF on fire protection districts. SB2743 sought to amend the definition of "redevelopment project costs" to include a fire protection district's increased costs attributable to the redevelopment project area. The bill also established a method of calculating amounts to be paid to the fire protection district.¹³ While the bill did not pass (for the purpose in which it was introduced), the State of Illinois already provides a process to address TIF impacts on taxing entities. Illinois law requires the municipality convene a “joint review board” consisting of representatives of all taxing entities within the proposed redevelopment project area to review and recommend approval or disapproval of the redevelopment plan.¹⁴

In contrast to the joint review board process in Illinois which is advisory in nature, the State of Utah requires creation of a “taxing entity committee”, consisting of representatives of all taxing entities within the proposed redevelopment project area. The taxing entity committee has authority to cast votes concerning the redevelopment project and TIF that are binding on all taxing entities.¹⁵

Some states, such as Minnesota, seek to address the impact of TIF on services such as fire protection, utilities, and other public infrastructure by including an assessment of the probable impact in their redevelopment planning process. Several states require that the chief executive officers of all local governmental and taxing units having the power to levy taxes on property located within the proposed redevelopment district receive notice of the proposed district.¹⁶ In addition, at least two states (Oregon, Texas) require the entity proposing the use of TIF for redevelopment meet and confer with each taxing district affected by the urban renewal plan.¹⁷

Recommendations to Address Impacts

The CSFCA supports reforming the URA and TIF statutes to require that fire protection districts that overlap proposed URAs have standing in the process, especially in cases where it is proposed that property tax revenue is diverted from the district. This standing is necessary to ensure the impacts on the fire protection district are accurately identified and satisfactorily addressed.

¹¹ Mo. Rev. Stat. §99.848.

¹² California Community Redevelopment Law §33445.6.

¹³ SB2743, State of Illinois, 95th General Assembly (2008)

¹⁴ § 65 ILCS 5/11-74.4-5 (b).

¹⁵ Utah Code Ann. §17B-4-1002.

¹⁶ Tax Increment Finance Best Practices Reference Guide, Council of Development Finance Agencies and the International Council of Shopping Centers (2007)

¹⁷ Or. Rev. Stat. §457.085 and Tex. Tax Code Ann. Sec. 311.003.

The CSFCA specifically recommends the following statutory changes:

- (1) Require that a municipality formally notify affected fire protection district of plans to designate an urban renewal area, including a description of the project and whether or not revenues of the district(s) are proposed to be used for the financing of the URA.
 - The fire protection district should be brought into the process at the early planning stage so it may provide advice to municipal officials on the fire protection implications of different development scenarios.
- (2) Require that an urban renewal impact report include an estimate of the impact of the urban renewal project on fire district revenues and on the cost and extent of additional fire protection infrastructure and services required to serve development within the proposed urban renewal area.
 - Even in cases where fire protection infrastructure exists in the urban renewal area, it may be insufficient to meet the needs of the proposed development or redevelopment. Fire stations may need to be expanded or relocated, and the kinds of fire apparatus may need to be changed. Provision must also be made for replacement of apparatus that will exceed its useful life and fire stations that may need refurbishing during the existence of the URA.
- (3) Provide a formal process for the review and comment on the urban renewal plan and impact report by affected fire protection districts.
 - A conceptual process for involving other taxing entities in the urban renewal plan adoption process is included as Appendix B.
- (4) Provide a formal process for negotiation and intergovernmental agreement concerning the portion of the tax increment (or payments in lieu of) to be provided to affected fire protection districts to serve development within the proposed urban renewal area.
 - Consideration should be given to setting the base valuation for commercial uses in the URA on the average actual valuation of existing commercial development in the fire district. For example, if the actual value of all commercial property in the fire district is \$200 million, and there are 300 acres of commercial property, the base valuation per commercial acre in the URA would be \$667,000.
 - Consideration should be given to a formula-based approach for addressing the financial impacts of TIF on fire protection districts, similar in concept to that proposed for adoption by the Illinois General Assembly in 2008.¹⁸

¹⁸ SB2743, State of Illinois, 95th General Assembly (2008). See: http://www.colofirechiefs.org/docs/2009/IL_SB2743.pdf or <http://www.ilga.gov/legislation/95/SB/09500SB2743.htm>.

- (5) In cases where the urban renewal plan does not satisfactorily address the costs associated with infrastructure improvements needed to serve the URA, provide statutory authority for fire protection districts to impose and collect impact fees for the new developments' pro rata share of infrastructure costs.
- Since impact fees can only address needed capital improvements, a portion of the tax increment (or payments in lieu of) would still be needed to offset increased operating expenses necessary to serve the URA.
 - In the alternative of providing this statutory authority to fire protection districts, the statutory authority could be granted to municipalities to impose and collect the impact fee on behalf of the fire protection district.
- (6) Prohibit the use of TIF for urban renewal areas that contain more than a designated percentage (say 25%) agricultural or vacant land, unless the affected fire protection districts agree with the use of its portion of property tax revenues for TIF.
- (7) Prohibit the use of any property taxes levied for a firefighters' pension fund or the debt service of a fire protection district to be included in the calculation of TIF revenue.

In the absence of meaningful reform of the URA and TIF statutes to address the adverse impact on fire protection districts, the CSFCA should seek legislation exempting the property tax revenues of fire protection districts from TIF.

The Case for Exempting Fire District Property Taxes from TIF

As indicated in the preceding discussion, TIF disproportionately impacts fire protection districts. On average, the portion of the total mill levy for a tax district attributable to fire protection districts is 8.6%. However, since fire protection districts rely almost exclusively on property taxes to fund capital improvements and operating expenses, the impact of losing this revenue to TIF can be significant.

Fire protection districts are also one of the few taxing entities that cannot "make up" the loss of property tax revenue by some other means, such as the imposition of infrastructure development and service fees, or through the denial of service to the developing area.

The exclusion of property taxes collected by a fire protection district from TIF would preclude the burdensome and costly requirement of estimating the impact of each proposed urban renewal area on fire protection services and negotiating with the fire protection district to offset this impact. It would also better position the fire protection district to provide fire and related emergency services to the developing or redeveloping area.

References

Colorado Urban Renewal Statutes (C.R.S. §31-25-101 et seq.)

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<https://www.dcnteam.com/cdfa/store.nsf/checkout?open&item=39873>

Appendix A Recent Legislative Efforts to Address Impact of TIF

HB08-1163, Concerning an Exception to Statutory Requirements Governing the Collection of Excess Property Tax Revenue by Urban Renewal Authorities in Connection With Tax Increment Financing for Certain Special Districts Providing Emergency Services, by Rep. Sonnenberg and Sen. Bacon.

Bill Summary: This bill authorizes special districts and metropolitan districts that provide emergency services to retain property and sales tax revenue that results from either the growth in value of taxable property or the collection of sales taxes in an urban renewal area that would otherwise be diverted to urban renewal authorities from tax increment financing (TIF). This bill is effective July 1, 2008, and affects TIF revenue that would have been paid to service debt on urban renewal projects on or after the effective date. This bill was killed in the House Committee on Finance.

Link to Bill: http://www.colofirechiefs.org/08Legislature/1163_01.pdf

SB08-103, Concerning a Requirement that a Portion of the Property Tax Revenues Collected by an Urban Renewal Authority In Connection With Tax Increment Financing be Shared with Other Local Governments, by Sen. Tochtrop.

Bill Summary: Commencing with the first property tax year in which any payment of property taxes are allocated and paid into a special fund to pay off indebtedness incurred by an urban renewal project, requires an urban renewal authority to make an annual payment to the other public bodies that share in the revenues produced by the property tax levy, including counties, school districts, and special districts, in an amount that is not less than a specified percentage of the amount of revenues from the property tax levy paid into the special fund in that year. This bill was killed by the Senate Committee on Local Government.

Link to Bill: http://www.colofirechiefs.org/08Legislature/103_01.pdf

HB09-1013, Concerning an Exception to Statutory Requirements Governing the Collection of Excess Property Tax Revenue By Urban Renewal Authorities in Connection With Tax Increment Financing for Certain Special Districts Providing Emergency Services, by Rep. Sonnenberg.

Bill Summary: This bill authorizes special districts and metropolitan districts that provide emergency services to retain property and sales tax revenue that results from either the growth in value of taxable property or the collection of sales taxes in an urban renewal area that would otherwise be diverted to urban renewal authorities (URAs) from tax increment financing (TIF). The exception in this bill would only apply to a new or an existing urban renewal area for which an assessor certifies an increment value occurring on or after 2009. For metropolitan districts, this bill requires that only the portion of TIF increment revenue that is allocated to the provision of emergency services not be diverted to URAs. This bill was lost on Second Reading in the House after passing both House Finance and Local Government Committees.

Link to Bill: http://www.colofirechiefs.org/09Legislature/1013_01.pdf

HB09-1070, Concerning the Prohibition of Certain Types of Lands From Inclusion in Urban Renewal Areas, and, in Connection Therewith, Requiring the Participation in Urban Renewal Areas of Governmental Entities that Impose Property Taxes, by Rep. Fischer.

Bill Summary: Specifies that no area that has been designated as an urban renewal area shall contain any agricultural or vacant land unless: (1) the area is a brownfield site as designated by the United States Environmental Protection Agency; (2) each public body that levies ad valorem property taxes on the area agrees to the inclusion of the area within the urban renewal area; (3) the area was included in an approved urban renewal plan prior to the effective date of the act; or (4) the area was previously developed and became vacant as a result of demolition, destruction, or acts of nature. Expands existing statutory provisions governing the submission of an urban renewal plan or modification to the plan to require a municipality to submit the plan or modification and, under specified circumstances, the urban renewal impact report to the governing body of a taxing entity. This bill was killed in House Committee on Local Government.

Link to Bill: http://www.colofirechiefs.org/09Legislature/1070_01.pdf

HB09-1259, Concerning the Imposition of Impact Fees by Local Governments for Certain Authorized Local Purposes, by Rep. Hullinghorst.

Bill Summary: Requires that before an Urban Renewal Plan and TIF can be established, all taxing entities within the URA must receive a report explaining the potential impact of the TIF on their future tax base. Enables URAs to retain 100 percent of the property tax increment revenue levied by all the taxing entities for a 5- year startup period, and then divides the incremental revenue: 50 percent goes to the URA and 50 percent is retained by all the other taxing entities, unless they work out another arrangement via intergovernmental agreement. This bill was killed by the House Committee on Finance.

Link to Bill: http://www.colofirechiefs.org/09Legislature/1259_01.pdf

HB09-1327, 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, by Rep. Hullinghorst and Sen. Tochtrop.

Bill Summary: 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 and, in specified circumstances, additionally requires the taxing entities to be provided a copy of the report. 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 or the municipality will adequately finance any additional taxing entity infrastructure as well as services

required to serve development within the urban renewal area. This bill was killed by Senate Committee on Local Government and Energy.

Link to Bill: http://www.colofirechiefs.org/09Legislature/1327_ren.pdf

Appendix B
Conceptual Process for Involvement by Other Taxing Entities in Urban Renewal Plan Adoption Process

Instead of the requirement that the municipality make presentations to and meet individually with each affected taxing entity, the concept would be to create a “Joint Review Board” consisting of representatives of each taxing entity that will have the authority to directly levy taxes on the property within the proposed project area, a representative selected by the municipality and a public member.

- The governing body of any affected taxing entity may choose not to participate on the board and the failure of any taxing entity to appoint a representative shall neither create a cause of action in favor of any party nor invalidate any actions taken by the board, the urban renewal plan or modification to the plan.

The authority of the Joint Review Board would be to represent the individual taxing entities in the review of the proposed urban renewal plan, the impact report, and any statement of impact submitted by any of the affected taxing entities. The Board shall make a recommendation concerning the adoption of the plan, or shall propose amendments to the plan to address the impact on the infrastructure and services required by any of the taxing entities to serve development in the urban renewal area. The recommendations would be in the form of a report to the municipality, which would be considered advisory and non-binding.

If the Joint Review Board recommends amendments to the plan, the municipality would have a period of time in which to resubmit the plan or modification. During this period, the municipality will meet and confer with the Joint Review Board and attempt to resolve those issues set forth in the board's written report that led to the recommended amendments to the plan.

If the municipality makes changes to the urban renewal plan necessary to satisfy the issues set forth in the Joint Review Board report, the municipality may move forward with action on adoption of the plan.

In the event that the municipality and the Joint Review Board are unable to resolve their differences, or in the event that the resubmitted plan or amendment is rejected by the Joint Review Board, the municipality may still proceed with action on adoption of the plan. However, counties would retain the arbitration process established by C.R.S. §31-25-107 (12).

Furthermore, if the board of directors of a fire protection district that includes the property within the proposed project area finds that the urban renewal plan or amendment does not adequately address the infrastructure or operational needs of the district to serve the urban renewal area or would cause a financial burden or detriment to adequately serving the remaining area of the district, the board of directors of the fire protection district may, by resolution, refuse to participate in the financing of the urban renewal project.

- The fire protection district may opt to participate, through intergovernmental agreement with the municipality, in the financing of the urban renewal project to the extent that it would not cause a financial burden or detriment to adequately serving the urban renewal area and the remaining area of the district.

This Joint Review Board process would add a level of transparency to the urban renewal process and facilitate buy-in from other affected taxing entities, without creating a burdensome and costly mediation and arbitration process. The proposed process would preserve the authority of counties to enforce certain provisions of the Urban Renewal Law through arbitration. It would ensure the ability of fire protection districts, which have no other method to address the impacts of urban renewal and tax increment financing, to adequately serve the urban renewal area and the remaining area of the district.

Joint Review Board Process Described

At least sixty days prior to the hearing on an urban renewal plan or a substantial modification to such plan, the governing body or the authority shall submit such plan or modification to the governing body of all other taxing entities that levy a tax on property within the urban renewal project area, and, if property taxes collected as a result of their levies 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 plan:

- The estimated duration of time to complete the urban renewal project;
- The estimated annual property tax increment to be generated by the urban renewal project and the portion of such property tax increment to be allocated during this period to fund the urban renewal project;
- An estimate of the impact of the urban renewal project on the revenues of each of the taxing entities and on the cost and extent of additional infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing infrastructure;
- A statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in C.R.S. §31-25-107 (12) and levied by a county are paid to the authority; and
- Any other estimated impacts of the urban renewal project on the services or revenues of any of the taxing entities.

The plan or impact report may be submitted later than the 60th day before the date of the public hearing if the governing body of each taxing entity that levies real property taxes in the proposed zone agrees to waive the requirement.

At least forty-five days prior to the hearing on an urban renewal plan or a substantial modification to such plan, the governing body or the authority shall convene a Joint Review Board (“Board”). The board shall consist of a representative selected by the governing body of each taxing entity that will have the authority to directly levy taxes on the property within the proposed project area at the time that the proposed project area is approved, a representative selected by the municipality and a public member. The public member shall first be selected and then the board's chairperson shall be selected by a majority of the board members present and voting.

- The governing body of any affected taxing entity may choose not to participate on the board and the failure of any taxing entity to appoint a representative shall neither create a cause of action in favor of any party nor invalidate any actions taken by the board, the urban renewal plan or modification to the plan.

The board shall review the urban renewal plan or modification, the impact report, and any written statement of impact submitted by any of the affected taxing entities and shall make a recommendation concerning the adoption of the plan, or shall propose amendments to the plan or modification to address the impact on the infrastructure and services required by any of the taxing entities to serve development in the urban renewal area.

The board shall issue a written report to the municipality within 30 days after convening of the board. Any recommendations made by the board shall be adopted by a majority of those members present and voting. The recommendations shall be considered advisory, non-binding recommendations on the municipality and the individual taxing entities.

- Failure of the board to submit its report on a timely basis shall not be cause to delay the public hearing or any other step in the process of designating or amending the urban renewal plan, nor shall it be deemed to constitute approval by the joint review board of the matters before it.

In the event the board does not file a report by the date and time of the public hearing it shall be presumed that these taxing bodies have no objection to the plan or modification, except as provided in C.R.S. §31-25-107 (12) with respect to affected counties, and a new paragraph (below) with respect to fire protection districts.

If the board recommends amendments to the plan, the municipality will have 30 days within which to resubmit the plan or modification. During this period, the municipality will meet and confer with the board and attempt to resolve those issues set forth in the board's written report that led to the recommended amendments to the plan.

- Notwithstanding the resubmission set forth above, the municipality may commence the scheduled public hearing and either adjourn the public hearing or continue the public hearing until a date certain. Prior to continuing any public hearing to a date certain, the municipality shall announce during the public hearing the time, date, and location for the reconvening of the public hearing.
- Changes to the redevelopment plan necessary to satisfy the issues set forth in the board report shall not require any further notice or convening of a Joint Review Board meeting.

Except as provided in a new paragraph (below) with respect to affected fire protection districts and C.R.S. §31-25-107 (12) with respect to affected counties, in the event that the municipality and the board are unable to resolve these differences, or in the event that the resubmitted plan or amendment is rejected by the board, the municipality may proceed with the plan or amendment.

Fire Protection Districts

If the board of directors of a fire protection district that includes the property within the proposed project area finds that the urban renewal plan or amendment does not adequately address the infrastructure or operational needs of the district to serve the development within the urban renewal area or would cause a financial burden or detriment to adequately serving the remaining area of the district, the board of directors of the fire protection district may, in its sole discretion and by resolution, refuse to participate in the financing of the urban renewal project.

- The fire protection district must notify the municipality of its findings by the date and time of the public hearing and must appear at the hearing to present evidence that the development within the urban renewal area will create a need for additional infrastructure and services and the urban renewal plan does not adequately address the infrastructure or operational needs of the district to serve the development within the urban renewal area or would cause a financial burden or detriment to adequately serving the remaining area of the district.
- The fire protection district must have participated as a member of the Joint Review Board.
- The fire protection district may opt to participate, through intergovernmental agreement with the municipality, in the financing of the urban renewal project to the extent that it would not cause a financial burden or detriment to adequately serving the urban renewal area and the remaining area of the district.

A copy of the resolution of the board refusing to participate in the financing of the urban renewal project, or describing the extent to which it will participate, shall be sent to the municipality and to the county treasurer.

Upon notification of a fire protection district's refusal to participate in the financing of the urban renewal project, or describing the extent to which it will participate, the municipality shall amend the

urban renewal plan as necessary to account for the decrease in property taxes available for the project.

Other Recommended Changes to the Urban Renewal Law

1. Amend Section 31-25-103, Colorado Revised Statutes, by the addition of the following paragraphs:

31-25-103. Definitions

(3.6) "FIRE PROTECTION DISTRICT" MEANS A SPECIAL DISTRICT WHICH PROVIDES PROTECTION AGAINST FIRE BY ANY AVAILABLE MEANS AND WHICH MAY SUPPLY AMBULANCE AND EMERGENCY MEDICAL AND RESCUE SERVICES PURSUANT TO SECTION 32-1-1002, AND INCLUDES METROPOLITAN DISTRICTS PURSUANT TO SECTION 32-1-1004 AND COUNTY IMPROVEMENT DISTRICTS PURSUANT TO SECTION 30-20-501 THAT PROVIDE FIRE PROTECTION SERVICES.

(7.5) "TAXING ENTITY" MEANS A COUNTY, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, LAW ENFORCEMENT AUTHORITY, OR WATER, SANITATION, FIRE PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE, OR OTHER SPECIAL DISTRICT THAT HAS THE POWER TO LEVY TAXES ON PROPERTY LOCATED WITHIN THE PROPOSED URBAN RENEWAL AREA.

2. Amend Section 31-25-107 (9) (c), Colorado Revised Statutes, to read:

31-25-107. Approval of urban renewal plans by local governing body.

(9) (c) As used in this subsection (9), the word "taxes" shall include, ~~without limitation,~~ all levies authorized to be made on an ad valorem basis upon real and personal property or municipal sales taxes, EXCEPT PROPERTY TAXES LEVIED FOR A FIREFIGHTER'S PENSION FUND AND PROPERTY TAXES LEVIED BY ANY TAXING ENTITY FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON ALL BONDS, LOANS OR OTHER INDEBTEDNESS OF SUCH TAXING ENTITY; but nothing in this subsection (9) shall be construed to require any public body to levy taxes.

Note: If these recommendations are adopted, the recommendation to prohibit the use of TIF for urban renewal areas that contain more than a designated percentage (say 25%) agricultural or vacant land, unless the affected fire protection districts agree with the use of its portion of property tax revenues for TIF, would not be necessary.