

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0806.01 Nicole Myers x4326

SENATE BILL 23-175

SENATE SPONSORSHIP

Jaquez Lewis and Rich,

HOUSE SPONSORSHIP

Boesenecker and Taggart,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING THE USE OF TAX INCREMENT FINANCING BY DOWNTOWN
102 DEVELOPMENT AUTHORITIES, AND, IN CONNECTION THEREWITH,
103 CREATING AUTOMATIC EXTENSIONS OF THE PERIODS DURING
104 WHICH A PORTION OF PROPERTY TAX REVENUES MAY BE
105 ALLOCATED TO FINANCE PROJECTS OF AN AUTHORITY AND
106 ALLOWING AN AUTHORITY TO INCUR DEBT UNDER CERTAIN
107 CIRCUMSTANCES.

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>.)

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.

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 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, 31-25-807, **amend**
3 (3)(a) introductory portion, (3)(a)(II), and (3)(a)(IV); and **add** (3)(a)(V)
4 as follows:

5 **31-25-807. Powers - duties.** (3) (a) Notwithstanding any law to
6 the contrary and subject to ~~subsection (3)(a)(IV)~~ SUBSECTIONS (3)(a)(IV)
7 AND (3)(a)(V) of this section, any ~~such~~ plan of development as originally
8 adopted by the board or as later modified pursuant to this part 8 may, after
9 approval by the governing body of the municipality, contain a provision
10 that taxes, if any, levied after the effective date of the approval of ~~such~~
11 THE plan of development by ~~said~~ THE governing body upon taxable
12 property within the boundaries of the plan of development area each year
13 or that municipal sales taxes collected within said area, or both such
14 taxes, by or for the benefit of any public body shall be divided for a
15 period not to exceed thirty years or ~~such~~ A longer period as provided for
16 in ~~subsection (3)(a)(IV)~~ SUBSECTIONS (3)(a)(IV) AND (3)(a)(V) of this
17 section after the effective date of approval by ~~said~~ THE governing body of
18 such a provision, as follows:

19 (II) ~~That~~ THE portion of ~~said~~ property taxes or all or any portion
20 of ~~said~~ sales taxes, or both, in excess of ~~such~~ THE amount SPECIFIED IN
21 SUBSECTION (3)(a)(I) OF THIS SECTION shall be allocated to and, when
22 collected, paid into a special fund of the municipality for the payment of
23 the principal of, the interest on, and any premiums due in connection with
24 the bonds of, loans or advances to, or indebtedness incurred by, whether
25 funded, refunded, assumed, or otherwise, the municipality for financing
26 or refinancing, in whole or in part, a development project within the

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

1 INCLUDE TERMS, CONDITIONS, OR LIMITATIONS ON THE POWER OF THE
2 BOARD AS AGREED TO BY THE GOVERNING BODY AND BOARD. EXCEPT AS
3 OTHERWISE SET FORTH IN THE INTERGOVERNMENTAL AGREEMENT, BONDS
4 ISSUED BY THE BOARD MUST BE AUTHORIZED BY A RESOLUTION ADOPTED
5 BY THE BOARD AND MUST BE ISSUED BY THE AUTHORITY ACTING ON
6 BEHALF OF THE MUNICIPALITY PURSUANT TO SECTIONS 31-25-809,
7 31-25-810, 31-25-811, AND 31-25-812; EXCEPT THAT THE BOARD MUST
8 EXERCISE THE POWERS OF THE GOVERNING BODY AS SET FORTH IN THOSE
9 SECTIONS.

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

1 established sales tax base year. Notwithstanding any other provision of
2 this ~~subparagraph (IV)~~ SUBSECTION (3)(a)(IV), any extension authorized
3 pursuant to this ~~subparagraph (IV)~~ SUBSECTION (3)(a)(IV) may only be
4 considered by the governing body during the final ten years of the original
5 thirty-year period.

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

25 (V) (A) IF A GOVERNING BODY EXTENDS, PURSUANT TO
26 SUBSECTION (3)(a)(IV) OF THIS SECTION, THE PERIOD DURING WHICH A
27 PORTION OF THE PROPERTY TAXES MAY BE ALLOCATED TO THE SPECIAL

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

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

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

10 (C) BEFORE AUGUST 1 OF THE YEAR IMMEDIATELY PRECEDING THE
11 FIRST YEAR OF AN AUTOMATIC TWENTY-YEAR EXTENSION PERIOD
12 PURSUANT TO SUBSECTION (3)(a)(V)(A) OF THIS SECTION, A GOVERNING
13 BODY MAY ADOPT AN ORDINANCE TO OPT OUT OF THE NEXT AND ALL
14 FUTURE AUTOMATIC RECURRING TWENTY-YEAR EXTENSIONS TO THE
15 PERIOD DURING WHICH A PORTION OF PROPERTY TAX MAY BE COLLECTED
16 AND ALLOCATED TO THE SPECIAL FUND OF THE MUNICIPALITY PURSUANT
17 TO SUBSECTION (3)(a)(II) OF THIS SECTION.

18 **SECTION 2. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly; except
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V
22 of the state constitution against this act or an item, section, or part of this
23 act within such period, then the act, item, section, or part will not take
24 effect unless approved by the people at the general election to be held in
25 November 2024 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.