

**Senator Wayne A. Harper** proposes the following substitute bill:

**COMMUNITY REINVESTMENT AGENCY AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

**Highlighted Provisions:**

This bill:

- ▶ limits an agency's reporting requirements to only the reports required by law;
- ▶ prohibits a taxing entity from reducing the amount of project area funds under an interlocal agreement by a certain amount;
- ▶ places limitations on certain administrative fees a taxing entity may charge an agency;
- ▶ removes the requirement for an agency to provide a housing allocation if the community reinvestment project area plan:
  - provides solely for nonresidential project area development; and
  - provides for a percentage of the jobs created within the project area to have a certain annual gross wage; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17C-1-409**, as last amended by Laws of Utah 2018, Chapter 312

31 **17C-5-202**, as last amended by Laws of Utah 2017, Chapter 456

32 **17C-5-204**, as enacted by Laws of Utah 2016, Chapter 350

33 **17C-5-307**, as enacted by Laws of Utah 2016, Chapter 350

34 ENACTS:

35 **17C-1-609**, Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **17C-1-409** is amended to read:

39 **17C-1-409. Allowable uses of agency funds.**

40 (1) (a) ~~[An]~~ Subject to the provisions of this section, an agency may use agency funds:

41 (i) for any purpose authorized under this title;

42 (ii) for administrative, overhead, legal, or other operating expenses of the agency,  
43 including consultant fees and expenses under Subsection **17C-2-102**(1)(b)(ii)(B) or funding for  
44 a business resource center;

45 (iii) to pay for, including financing or refinancing, all or part of:

46 (A) project area development in a project area, including environmental remediation  
47 activities occurring before or after adoption of the project area plan;

48 (B) housing-related expenditures, projects, or programs as described in Section  
49 **17C-1-411** or **17C-1-412**;

50 (C) an incentive or other consideration paid to a participant under a participation  
51 agreement;

52 (D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the  
53 installation and construction of any publicly owned building, facility, structure, landscaping, or  
54 other improvement within the project area from which the project area funds are collected; or

55 (E) the cost of the installation of publicly owned infrastructure and improvements  
56 outside the project area from which the project area funds are collected if the board and the

57 community legislative body determine by resolution that the publicly owned infrastructure and  
58 improvements benefit the project area;

59 (iv) in an urban renewal project area that includes some or all of an inactive industrial  
60 site and subject to Subsection (1)(e), to reimburse the Department of Transportation created  
61 under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8,  
62 Public Transit District Act, for the cost of:

63 (A) construction of a public road, bridge, or overpass;

64 (B) relocation of a railroad track within the urban renewal project area; or

65 (C) relocation of a railroad facility within the urban renewal project area; or

66 (v) subject to Subsection (5), to transfer funds to a community that created the agency.

67 (b) The determination of the board and the community legislative body under  
68 Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

69 (c) An agency may not use project area funds received from a taxing entity for the  
70 purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an  
71 economic development project area plan, or a community reinvestment project area plan  
72 without the community legislative body's consent.

73 (d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a  
74 project area fund to another project area fund if:

75 (A) the board approves; and

76 (B) the community legislative body approves.

77 (ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the  
78 projections for agency funds are sufficient to repay the loan amount.

79 (iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5,  
80 Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal  
81 Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for  
82 Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

83 (e) Before an agency may pay any tax increment or sales tax revenue under Subsection  
84 (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the  
85 reimbursement with:

86 (i) the Department of Transportation; or

87 (ii) a public transit district.

88 (2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not  
89 subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use  
90 Tax Incentive Payments Act.

91 (b) An agency may use sales and use tax revenue that the agency receives under an  
92 interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the  
93 interlocal agreement.

94 (3) (a) An agency may contract with the community that created the agency or another  
95 public entity to use agency funds to reimburse the cost of items authorized by this title to be  
96 paid by the agency that are paid by the community or other public entity.

97 (b) If land is acquired or the cost of an improvement is paid by another public entity  
98 and the land or improvement is leased to the community, an agency may contract with and  
99 make reimbursement from agency funds to the community.

100 (4) Notwithstanding any other provision of this title, an agency may not use [project  
101 area] agency funds to construct a local government building unless the taxing entity committee  
102 or each taxing entity that is a party to an interlocal agreement with the agency consents.

103 (5) For the purpose of offsetting the community's annual local contribution to the  
104 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in  
105 a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and  
106 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in  
107 Section 35A-8-606.

108 (6) (a) Except as provided in Subsection (6)(b), an agency may not use project area  
109 funds to pay a taxing entity that is not the community that created the agency a one-time or  
110 ongoing:

111 (i) administrative fee; or

112 (ii) fee related to the creation, operation, or administration of a project area.

113 (b) Notwithstanding Subsection (6)(a), an agency may pay a county a one-time  
114 administrative fee related to the creation of a project area if:

115 (i) the agency and the county have entered into an interlocal agreement under Section  
116 17C-5-204; and

117 (ii) the agreement provides for the agency to pay the fee using a portion of the county's  
118 project area funds that the county authorizes the agency to receive.

119 Section 2. Section 17C-1-609 is enacted to read:

120 **17C-1-609. Agency reporting limitations.**

121 Except as required under this title, an agency is not required to submit to a public entity  
122 information or a report related to the agency's operations or project areas.

123 Section 3. Section 17C-5-202 is amended to read:

124 **17C-5-202. Community reinvestment project area funding options.**

125 (1) (a) Except as provided in Subsection (2), for the purpose of receiving project area  
126 funds for use within a community reinvestment project area, an agency shall negotiate and  
127 enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to  
128 receive all or a portion of the taxing entity's tax increment or sales and use tax revenue in  
129 accordance with the interlocal agreement.

130 (b) If a community reinvestment project area is subject to an interlocal agreement  
131 under Subsection (1)(a) and the agency subsequently amends the community reinvestment  
132 project area plan as described in Subsection 17C-5-112(4), the agency shall continue to receive  
133 project area funds under the interlocal agreement.

134 (2) If an agency plans to create a community reinvestment project area and adopt a  
135 community reinvestment project area plan that provides for the use of eminent domain to  
136 acquire property within the community reinvestment project area, the agency shall create a  
137 taxing entity committee as described in Section 17C-1-402 and receive tax increment in  
138 accordance with Section 17C-5-203.

139 ~~[(3) An agency shall comply with Chapter 5, Part 3, Community Reinvestment Project~~  
140 ~~Area Budget, regardless of whether an agency enters into an interlocal agreement under~~  
141 ~~Subsection (1) or creates a taxing entity committee under Subsection (2).]~~

142 (3) Regardless of whether an agency enters into an interlocal agreement under  
143 Subsection (1) or creates a taxing entity committee under Subsection (2), an agency:

144 (a) shall comply with Part 3, Community Reinvestment Project Area Budget; and

145 (b) except as provided in Subsection 17C-1-409(6)(b), may not pay a taxing entity that  
146 is not the community that created the agency a one-time or ongoing:

147 (i) administrative fee; or

148 (ii) fee related to the creation, operation, or administration of a project area.

149 Section 4. Section 17C-5-204 is amended to read:

150           **17C-5-204. Community reinvestment project area subject to interlocal agreement**  
151 **-- Consent of a taxing entity to an agency receiving project area funds.**

152           (1) As used in this section, "successor taxing entity" means a taxing entity that:

153           (a) is created after the day on which an interlocal agreement is executed to allow an  
154 agency to receive a taxing entity's project area funds; and

155           (b) levies or imposes a tax within the community reinvestment project area.

156           (2) This section applies to a community reinvestment project area that is subject to an  
157 interlocal agreement under Subsection 17C-5-202(1)(a).

158           (3) For the purpose of implementing a community reinvestment project area plan, an  
159 agency may negotiate with a taxing entity for all or a portion of the taxing entity's project area  
160 funds.

161           (4) A taxing entity may agree to allow an agency to receive the taxing entity's project  
162 area funds by executing an interlocal agreement with the agency in accordance with Title 11,  
163 Chapter 13, Interlocal Cooperation Act.

164           (5) Before an agency may use project area funds received under an interlocal  
165 agreement described in Subsection (4), the agency shall:

166           (a) obtain a written certification, signed by an attorney licensed to practice law in the  
167 state, stating that the agency and the taxing entity have each followed all legal requirements  
168 relating to the adoption of the interlocal agreement; and

169           (b) provide a signed copy of the certification described in Subsection (5)(a) to the  
170 taxing entity.

171           (6) An interlocal agreement described in Subsection (4) shall:

172           (a) if the interlocal agreement provides for the agency to receive tax increment, state:

173           (i) the method of calculating the amount of the taxing entity's tax increment from the  
174 community reinvestment project area that the agency receives, including the base year and base  
175 taxable value;

176           (ii) the project area funds collection period; and

177           (iii) the percentage of the taxing entity's tax increment or the maximum cumulative  
178 dollar amount of the taxing entity's tax increment that the agency receives;

179           (b) if the interlocal agreement provides for the agency to receive the taxing entity's  
180 sales and use tax revenue, state:

181 (i) the method of calculating the amount of the taxing entity's sales and use tax revenue  
182 that the agency receives;

183 (ii) the project area funds collection period; and

184 (iii) the percentage of sales and use tax revenue or the maximum cumulative dollar  
185 amount of sales and use tax revenue that the agency receives; [~~and~~]

186 (c) include a copy of the community reinvestment project area budget[-];

187 (d) prohibit a taxing entity from proportionately reducing the amount of project area  
188 funds the taxing entity consents to pay to an agency under this section by the amount of any  
189 direct expenditures the taxing entity makes within the project area for the benefit of the project  
190 area or the agency; and

191 (e) if the taxing entity is a county, state whether the county may, subject to Subsection  
192 17C-1-409(6)(b), collect a one-time administrative fee from the agency.

193 (7) A school district may consent to allow an agency to receive tax increment from the  
194 school district's basic levy only to the extent that the school district also consents to allow the  
195 agency to receive tax increment from the school district's local levy.

196 (8) The parties may amend an interlocal agreement under this section by mutual  
197 consent.

198 (9) A taxing entity's consent to allow an agency to receive project area funds under this  
199 section is not subject to the requirements of Section 10-8-2.

200 (10) An interlocal agreement executed by a taxing entity under this section may be  
201 enforced by or against any successor taxing entity.

202 Section 5. Section 17C-5-307 is amended to read:

203 **17C-5-307. Allocating project area funds for housing.**

204 (1) Except as provided in Subsection (4), an agency shall allocate the agency's project  
205 area funds for housing in accordance with this section.

206 [~~(1)~~] (2) (a) For a community reinvestment project area that is subject to a taxing entity  
207 committee, an agency shall allocate at least 20% of the agency's annual tax increment for  
208 housing in accordance with Section 17C-1-412 if the community reinvestment project area  
209 budget provides for more than \$100,000 of annual tax increment to be distributed to the  
210 agency.

211 (b) The taxing entity committee may waive a portion of the allocation described in

212 Subsection [~~(1)~~] (2)(a) if:

213 (i) the taxing entity committee determines that 20% of the agency's annual tax  
214 increment is more than is needed to address the community's need for income targeted housing  
215 or homeless assistance; and

216 (ii) after the waiver, the agency's housing allocation is equal to at least 10% of the  
217 agency's annual tax increment.

218 [~~(2)~~] (3) For a community reinvestment project area that is subject to an interlocal  
219 agreement, an agency shall allocate at least 10% of the project area funds for housing in  
220 accordance with Section [17C-1-412](#) if the community reinvestment project area budget  
221 provides for more than \$100,000 of annual project area funds to be distributed to the agency.

222 (4) An agency is not required to allocate the agency's community reinvestment project  
223 area funds for housing under this section if the community reinvestment project area plan:

224 (a) provides solely for nonresidential project area development; and

225 (b) provides for 60% of the jobs created within the project area to have an annual gross  
226 wage, not including healthcare or other paid or unpaid benefits, that is at least 125% of the  
227 average wage of the county in which the project area is located.