

HB0792



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0792

Introduced 2/9/2009, by Rep. Sandy Cole

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-74.4-5

from Ch. 24, par. 11-74.4-5

Amends the Tax Increment Allocation Redevelopment Act. Provides that the joint review board shall appoint one of its members to preside over certain public hearings.

LRB096 04528 RLJ 14582 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-74.4-5 as follows:

6 (65 ILCS 5/11-74.4-5) (from Ch. 24, par. 11-74.4-5)

7 Sec. 11-74.4-5. (a) The changes made by this amendatory Act
8 of the 91st General Assembly do not apply to a municipality
9 that, (i) before the effective date of this amendatory Act of
10 the 91st General Assembly, has adopted an ordinance or
11 resolution fixing a time and place for a public hearing under
12 this Section or (ii) before July 1, 1999, has adopted an
13 ordinance or resolution providing for a feasibility study under
14 Section 11-74.4-4.1, but has not yet adopted an ordinance
15 approving redevelopment plans and redevelopment projects or
16 designating redevelopment project areas under Section
17 11-74.4-4, until after that municipality adopts an ordinance
18 approving redevelopment plans and redevelopment projects or
19 designating redevelopment project areas under Section
20 11-74.4-4; thereafter the changes made by this amendatory Act
21 of the 91st General Assembly apply to the same extent that they
22 apply to redevelopment plans and redevelopment projects that
23 were approved and redevelopment projects that were designated

1 before the effective date of this amendatory Act of the 91st
2 General Assembly.

3 Prior to the adoption of an ordinance proposing the
4 designation of a redevelopment project area, or approving a
5 redevelopment plan or redevelopment project, the municipality
6 by its corporate authorities, or as it may determine by any
7 commission designated under subsection (k) of Section
8 11-74.4-4 shall adopt an ordinance or resolution fixing a time
9 and place for public hearing. At least 10 days prior to the
10 adoption of the ordinance or resolution establishing the time
11 and place for the public hearing, the municipality shall make
12 available for public inspection a redevelopment plan or a
13 separate report that provides in reasonable detail the basis
14 for the eligibility of the redevelopment project area. The
15 report along with the name of a person to contact for further
16 information shall be sent within a reasonable time after the
17 adoption of such ordinance or resolution to the affected taxing
18 districts by certified mail. On and after the effective date of
19 this amendatory Act of the 91st General Assembly, the
20 municipality shall print in a newspaper of general circulation
21 within the municipality a notice that interested persons may
22 register with the municipality in order to receive information
23 on the proposed designation of a redevelopment project area or
24 the approval of a redevelopment plan. The notice shall state
25 the place of registration and the operating hours of that
26 place. The municipality shall have adopted reasonable rules to

1 implement this registration process under Section 11-74.4-4.2.
2 The municipality shall provide notice of the availability of
3 the redevelopment plan and eligibility report, including how to
4 obtain this information, by mail within a reasonable time after
5 the adoption of the ordinance or resolution, to all residential
6 addresses that, after a good faith effort, the municipality
7 determines are located outside the proposed redevelopment
8 project area and within 750 feet of the boundaries of the
9 proposed redevelopment project area. This requirement is
10 subject to the limitation that in a municipality with a
11 population of over 100,000, if the total number of residential
12 addresses outside the proposed redevelopment project area and
13 within 750 feet of the boundaries of the proposed redevelopment
14 project area exceeds 750, the municipality shall be required to
15 provide the notice to only the 750 residential addresses that,
16 after a good faith effort, the municipality determines are
17 outside the proposed redevelopment project area and closest to
18 the boundaries of the proposed redevelopment project area.
19 Notwithstanding the foregoing, notice given after August 7,
20 2001 (the effective date of Public Act 92-263) and before the
21 effective date of this amendatory Act of the 92nd General
22 Assembly to residential addresses within 750 feet of the
23 boundaries of a proposed redevelopment project area shall be
24 deemed to have been sufficiently given in compliance with this
25 Act if given only to residents outside the boundaries of the
26 proposed redevelopment project area. The notice shall also be

1 provided by the municipality, regardless of its population, to
2 those organizations and residents that have registered with the
3 municipality for that information in accordance with the
4 registration guidelines established by the municipality under
5 Section 11-74.4-4.2.

6 With respect to a public hearing held on or after the
7 effective date of this amendatory Act of the 96th General
8 Assembly that requires the formation of a joint review board
9 under this Section, the joint review board shall appoint one of
10 its members to preside over the meeting.

11 At the public hearing any interested person or affected
12 taxing district may file with the municipal clerk written
13 objections to and may be heard orally in respect to any issues
14 embodied in the notice. The municipality shall hear all
15 protests and objections at the hearing and the hearing may be
16 adjourned to another date without further notice other than a
17 motion to be entered upon the minutes fixing the time and place
18 of the subsequent hearing. At the public hearing or at any time
19 prior to the adoption by the municipality of an ordinance
20 approving a redevelopment plan, the municipality may make
21 changes in the redevelopment plan. Changes which (1) add
22 additional parcels of property to the proposed redevelopment
23 project area, (2) substantially affect the general land uses
24 proposed in the redevelopment plan, (3) substantially change
25 the nature of or extend the life of the redevelopment project,
26 or (4) increase the number of inhabited residential units to be

1 displaced from the redevelopment project area, as measured from
2 the time of creation of the redevelopment project area, to a
3 total of more than 10, shall be made only after the
4 municipality gives notice, convenes a joint review board, and
5 conducts a public hearing pursuant to the procedures set forth
6 in this Section and in Section 11-74.4-6 of this Act. Changes
7 which do not (1) add additional parcels of property to the
8 proposed redevelopment project area, (2) substantially affect
9 the general land uses proposed in the redevelopment plan, (3)
10 substantially change the nature of or extend the life of the
11 redevelopment project, or (4) increase the number of inhabited
12 residential units to be displaced from the redevelopment
13 project area, as measured from the time of creation of the
14 redevelopment project area, to a total of more than 10, may be
15 made without further hearing, provided that the municipality
16 shall give notice of any such changes by mail to each affected
17 taxing district and registrant on the interested parties
18 registry, provided for under Section 11-74.4-4.2, and by
19 publication in a newspaper of general circulation within the
20 affected taxing district. Such notice by mail and by
21 publication shall each occur not later than 10 days following
22 the adoption by ordinance of such changes. Hearings with regard
23 to a redevelopment project area, project or plan may be held
24 simultaneously.

25 (b) Prior to holding a public hearing to approve or amend a
26 redevelopment plan or to designate or add additional parcels of

1 property to a redevelopment project area, the municipality
2 shall convene a joint review board. The board shall consist of
3 a representative selected by each community college district,
4 local elementary school district and high school district or
5 each local community unit school district, park district,
6 library district, township, fire protection district, and
7 county that will have the authority to directly levy taxes on
8 the property within the proposed redevelopment project area at
9 the time that the proposed redevelopment project area is
10 approved, a representative selected by the municipality and a
11 public member. The public member shall first be selected and
12 then the board's chairperson shall be selected by a majority of
13 the board members present and voting.

14 For redevelopment project areas with redevelopment plans
15 or proposed redevelopment plans that would result in the
16 displacement of residents from 10 or more inhabited residential
17 units or that include 75 or more inhabited residential units,
18 the public member shall be a person who resides in the
19 redevelopment project area. If, as determined by the housing
20 impact study provided for in paragraph (5) of subsection (n) of
21 Section 11-74.4-3, or if no housing impact study is required
22 then based on other reasonable data, the majority of
23 residential units are occupied by very low, low, or moderate
24 income households, as defined in Section 3 of the Illinois
25 Affordable Housing Act, the public member shall be a person who
26 resides in very low, low, or moderate income housing within the

1 redevelopment project area. Municipalities with fewer than
2 15,000 residents shall not be required to select a person who
3 lives in very low, low, or moderate income housing within the
4 redevelopment project area, provided that the redevelopment
5 plan or project will not result in displacement of residents
6 from 10 or more inhabited units, and the municipality so
7 certifies in the plan. If no person satisfying these
8 requirements is available or if no qualified person will serve
9 as the public member, then the joint review board is relieved
10 of this paragraph's selection requirements for the public
11 member.

12 Within 90 days of the effective date of this amendatory Act
13 of the 91st General Assembly, each municipality that designated
14 a redevelopment project area for which it was not required to
15 convene a joint review board under this Section shall convene a
16 joint review board to perform the duties specified under
17 paragraph (e) of this Section.

18 All board members shall be appointed and the first board
19 meeting shall be held at least 14 days but not more than 28
20 days after the mailing of notice by the municipality to the
21 taxing districts as required by Section 11-74.4-6(c).
22 Notwithstanding the preceding sentence, a municipality that
23 adopted either a public hearing resolution or a feasibility
24 resolution between July 1, 1999 and July 1, 2000 that called
25 for the meeting of the joint review board within 14 days of
26 notice of public hearing to affected taxing districts is deemed

1 to be in compliance with the notice, meeting, and public
2 hearing provisions of the Act. Such notice shall also advise
3 the taxing bodies represented on the joint review board of the
4 time and place of the first meeting of the board. Additional
5 meetings of the board shall be held upon the call of any
6 member. The municipality seeking designation of the
7 redevelopment project area shall provide administrative
8 support to the board.

9 The board shall review (i) the public record, planning
10 documents and proposed ordinances approving the redevelopment
11 plan and project and (ii) proposed amendments to the
12 redevelopment plan or additions of parcels of property to the
13 redevelopment project area to be adopted by the municipality.
14 As part of its deliberations, the board may hold additional
15 hearings on the proposal. A board's recommendation shall be an
16 advisory, non-binding recommendation. The recommendation shall
17 be adopted by a majority of those members present and voting.
18 The recommendations shall be submitted to the municipality
19 within 30 days after convening of the board. Failure of the
20 board to submit its report on a timely basis shall not be cause
21 to delay the public hearing or any other step in the process of
22 designating or amending the redevelopment project area but
23 shall be deemed to constitute approval by the joint review
24 board of the matters before it.

25 The board shall base its recommendation to approve or
26 disapprove the redevelopment plan and the designation of the

1 redevelopment project area or the amendment of the
2 redevelopment plan or addition of parcels of property to the
3 redevelopment project area on the basis of the redevelopment
4 project area and redevelopment plan satisfying the plan
5 requirements, the eligibility criteria defined in Section
6 11-74.4-3, and the objectives of this Act.

7 The board shall issue a written report describing why the
8 redevelopment plan and project area or the amendment thereof
9 meets or fails to meet one or more of the objectives of this
10 Act and both the plan requirements and the eligibility criteria
11 defined in Section 11-74.4-3. In the event the Board does not
12 file a report it shall be presumed that these taxing bodies
13 find the redevelopment project area and redevelopment plan
14 satisfy the objectives of this Act and the plan requirements
15 and eligibility criteria.

16 If the board recommends rejection of the matters before it,
17 the municipality will have 30 days within which to resubmit the
18 plan or amendment. During this period, the municipality will
19 meet and confer with the board and attempt to resolve those
20 issues set forth in the board's written report that led to the
21 rejection of the plan or amendment.

22 Notwithstanding the resubmission set forth above, the
23 municipality may commence the scheduled public hearing and
24 either adjourn the public hearing or continue the public
25 hearing until a date certain. Prior to continuing any public
26 hearing to a date certain, the municipality shall announce

1 during the public hearing the time, date, and location for the
2 reconvening of the public hearing. Any changes to the
3 redevelopment plan necessary to satisfy the issues set forth in
4 the joint review board report shall be the subject of a public
5 hearing before the hearing is adjourned if the changes would
6 (1) substantially affect the general land uses proposed in the
7 redevelopment plan, (2) substantially change the nature of or
8 extend the life of the redevelopment project, or (3) increase
9 the number of inhabited residential units to be displaced from
10 the redevelopment project area, as measured from the time of
11 creation of the redevelopment project area, to a total of more
12 than 10. Changes to the redevelopment plan necessary to satisfy
13 the issues set forth in the joint review board report shall not
14 require any further notice or convening of a joint review board
15 meeting, except that any changes to the redevelopment plan that
16 would add additional parcels of property to the proposed
17 redevelopment project area shall be subject to the notice,
18 public hearing, and joint review board meeting requirements
19 established for such changes by subsection (a) of Section
20 11-74.4-5.

21 In the event that the municipality and the board are unable
22 to resolve these differences, or in the event that the
23 resubmitted plan or amendment is rejected by the board, the
24 municipality may proceed with the plan or amendment, but only
25 upon a three-fifths vote of the corporate authority responsible
26 for approval of the plan or amendment, excluding positions of

1 members that are vacant and those members that are ineligible
2 to vote because of conflicts of interest.

3 (c) After a municipality has by ordinance approved a
4 redevelopment plan and designated a redevelopment project
5 area, the plan may be amended and additional properties may be
6 added to the redevelopment project area only as herein
7 provided. Amendments which (1) add additional parcels of
8 property to the proposed redevelopment project area, (2)
9 substantially affect the general land uses proposed in the
10 redevelopment plan, (3) substantially change the nature of the
11 redevelopment project, (4) increase the total estimated
12 redevelopment project costs set out in the redevelopment plan
13 by more than 5% after adjustment for inflation from the date
14 the plan was adopted, (5) add additional redevelopment project
15 costs to the itemized list of redevelopment project costs set
16 out in the redevelopment plan, or (6) increase the number of
17 inhabited residential units to be displaced from the
18 redevelopment project area, as measured from the time of
19 creation of the redevelopment project area, to a total of more
20 than 10, shall be made only after the municipality gives
21 notice, convenes a joint review board, and conducts a public
22 hearing pursuant to the procedures set forth in this Section
23 and in Section 11-74.4-6 of this Act. Changes which do not (1)
24 add additional parcels of property to the proposed
25 redevelopment project area, (2) substantially affect the
26 general land uses proposed in the redevelopment plan, (3)

1 substantially change the nature of the redevelopment project,
2 (4) increase the total estimated redevelopment project cost set
3 out in the redevelopment plan by more than 5% after adjustment
4 for inflation from the date the plan was adopted, (5) add
5 additional redevelopment project costs to the itemized list of
6 redevelopment project costs set out in the redevelopment plan,
7 or (6) increase the number of inhabited residential units to be
8 displaced from the redevelopment project area, as measured from
9 the time of creation of the redevelopment project area, to a
10 total of more than 10, may be made without further public
11 hearing and related notices and procedures including the
12 convening of a joint review board as set forth in Section
13 11-74.4-6 of this Act, provided that the municipality shall
14 give notice of any such changes by mail to each affected taxing
15 district and registrant on the interested parties registry,
16 provided for under Section 11-74.4-4.2, and by publication in a
17 newspaper of general circulation within the affected taxing
18 district. Such notice by mail and by publication shall each
19 occur not later than 10 days following the adoption by
20 ordinance of such changes.

21 (d) After the effective date of this amendatory Act of the
22 91st General Assembly, a municipality shall submit the
23 following information for each redevelopment project area (i)
24 to the State Comptroller under Section 8-8-3.5 of the Illinois
25 Municipal Code and (ii) to all taxing districts overlapping the
26 redevelopment project area no later than 180 days after the

1 close of each municipal fiscal year or as soon thereafter as
2 the audited financial statements become available and, in any
3 case, shall be submitted before the annual meeting of the Joint
4 Review Board to each of the taxing districts that overlap the
5 redevelopment project area:

6 (1) Any amendments to the redevelopment plan, the
7 redevelopment project area, or the State Sales Tax
8 Boundary.

9 (1.5) A list of the redevelopment project areas
10 administered by the municipality and, if applicable, the
11 date each redevelopment project area was designated or
12 terminated by the municipality.

13 (2) Audited financial statements of the special tax
14 allocation fund once a cumulative total of \$100,000 has
15 been deposited in the fund.

16 (3) Certification of the Chief Executive Officer of the
17 municipality that the municipality has complied with all of
18 the requirements of this Act during the preceding fiscal
19 year.

20 (4) An opinion of legal counsel that the municipality
21 is in compliance with this Act.

22 (5) An analysis of the special tax allocation fund
23 which sets forth:

24 (A) the balance in the special tax allocation fund
25 at the beginning of the fiscal year;

26 (B) all amounts deposited in the special tax

1 allocation fund by source;

2 (C) an itemized list of all expenditures from the
3 special tax allocation fund by category of permissible
4 redevelopment project cost; and

5 (D) the balance in the special tax allocation fund
6 at the end of the fiscal year including a breakdown of
7 that balance by source and a breakdown of that balance
8 identifying any portion of the balance that is
9 required, pledged, earmarked, or otherwise designated
10 for payment of or securing of obligations and
11 anticipated redevelopment project costs. Any portion
12 of such ending balance that has not been identified or
13 is not identified as being required, pledged,
14 earmarked, or otherwise designated for payment of or
15 securing of obligations or anticipated redevelopment
16 projects costs shall be designated as surplus as set
17 forth in Section 11-74.4-7 hereof.

18 (6) A description of all property purchased by the
19 municipality within the redevelopment project area
20 including:

21 (A) Street address.

22 (B) Approximate size or description of property.

23 (C) Purchase price.

24 (D) Seller of property.

25 (7) A statement setting forth all activities
26 undertaken in furtherance of the objectives of the

1 redevelopment plan, including:

2 (A) Any project implemented in the preceding
3 fiscal year.

4 (B) A description of the redevelopment activities
5 undertaken.

6 (C) A description of any agreements entered into by
7 the municipality with regard to the disposition or
8 redevelopment of any property within the redevelopment
9 project area or the area within the State Sales Tax
10 Boundary.

11 (D) Additional information on the use of all funds
12 received under this Division and steps taken by the
13 municipality to achieve the objectives of the
14 redevelopment plan.

15 (E) Information regarding contracts that the
16 municipality's tax increment advisors or consultants
17 have entered into with entities or persons that have
18 received, or are receiving, payments financed by tax
19 increment revenues produced by the same redevelopment
20 project area.

21 (F) Any reports submitted to the municipality by
22 the joint review board.

23 (G) A review of public and, to the extent possible,
24 private investment actually undertaken to date after
25 the effective date of this amendatory Act of the 91st
26 General Assembly and estimated to be undertaken during

1 the following year. This review shall, on a
2 project-by-project basis, set forth the estimated
3 amounts of public and private investment incurred
4 after the effective date of this amendatory Act of the
5 91st General Assembly and provide the ratio of private
6 investment to public investment to the date of the
7 report and as estimated to the completion of the
8 redevelopment project.

9 (8) With regard to any obligations issued by the
10 municipality:

11 (A) copies of any official statements; and

12 (B) an analysis prepared by financial advisor or
13 underwriter setting forth: (i) nature and term of
14 obligation; and (ii) projected debt service including
15 required reserves and debt coverage.

16 (9) For special tax allocation funds that have
17 experienced cumulative deposits of incremental tax
18 revenues of \$100,000 or more, a certified audit report
19 reviewing compliance with this Act performed by an
20 independent public accountant certified and licensed by
21 the authority of the State of Illinois. The financial
22 portion of the audit must be conducted in accordance with
23 Standards for Audits of Governmental Organizations,
24 Programs, Activities, and Functions adopted by the
25 Comptroller General of the United States (1981), as
26 amended, or the standards specified by Section 8-8-5 of the

1 Illinois Municipal Auditing Law of the Illinois Municipal
2 Code. The audit report shall contain a letter from the
3 independent certified public accountant indicating
4 compliance or noncompliance with the requirements of
5 subsection (q) of Section 11-74.4-3. For redevelopment
6 plans or projects that would result in the displacement of
7 residents from 10 or more inhabited residential units or
8 that contain 75 or more inhabited residential units, notice
9 of the availability of the information, including how to
10 obtain the report, required in this subsection shall also
11 be sent by mail to all residents or organizations that
12 operate in the municipality that register with the
13 municipality for that information according to
14 registration procedures adopted under Section 11-74.4-4.2.
15 All municipalities are subject to this provision.

16 (d-1) Prior to the effective date of this amendatory Act of
17 the 91st General Assembly, municipalities with populations of
18 over 1,000,000 shall, after adoption of a redevelopment plan or
19 project, make available upon request to any taxing district in
20 which the redevelopment project area is located the following
21 information:

22 (1) Any amendments to the redevelopment plan, the
23 redevelopment project area, or the State Sales Tax
24 Boundary; and

25 (2) In connection with any redevelopment project area
26 for which the municipality has outstanding obligations

1 issued to provide for redevelopment project costs pursuant
2 to Section 11-74.4-7, audited financial statements of the
3 special tax allocation fund.

4 (e) The joint review board shall meet annually 180 days
5 after the close of the municipal fiscal year or as soon as the
6 redevelopment project audit for that fiscal year becomes
7 available to review the effectiveness and status of the
8 redevelopment project area up to that date.

9 (f) (Blank).

10 (g) In the event that a municipality has held a public
11 hearing under this Section prior to March 14, 1994 (the
12 effective date of Public Act 88-537), the requirements imposed
13 by Public Act 88-537 relating to the method of fixing the time
14 and place for public hearing, the materials and information
15 required to be made available for public inspection, and the
16 information required to be sent after adoption of an ordinance
17 or resolution fixing a time and place for public hearing shall
18 not be applicable.

19 (Source: P.A. 91-357, eff. 7-29-99; 91-478, eff. 11-1-99;
20 91-900, eff. 7-6-00; 92-263, eff. 8-7-01; 92-624, eff.
21 7-11-02.)