

HB 15-1348

What does it mean to me?

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Does HB 15-1348 apply to my urban renewal plan or authority?

- If you form a new urban renewal authority after January 1, 2016
- If you adopt a new urban renewal plan or “amend or modify” an existing urban renewal plan
 - Current law uses the term “modification” and requires a governing body to make a determination whether a modification is “substantial.”
 - A substantial modification requires the same notice, public hearing, and impact report as adoption of a new plan.
 - Substantial modification includes a substantial change in “land area, land use, design, building requirements, timing or procedure.”
 - Unclear how “amendment” differs from modification – not used elsewhere in the statute with respect to urban renewal plans

Does HB 15-1348 apply to my urban renewal plan or authority?

- HB 15-1348 also applies to “urban renewal plan amendments or modifications adopted on or after January 1, 2016, which modifications or limitations are limited to:
 - any addition of an urban renewal project;
 - an alteration in the boundaries of an urban renewal area; or
 - or an extension of an urban renewal plan or the duration of a specific urban renewal project.
- For any such plans or projects, HB 15-1348 applies, **regardless of whether such extension or related changes in duration require actual alteration of the terms of the urban renewal plan.**

Does HB 15-1348 apply to my urban renewal plan or authority?

- any addition of an urban renewal project
 - “urban renewal project’ means undertakings and activities for the elimination and for the prevention of the development or spread of slums and blight and may involve slum clearance and redevelopment, or rehabilitation, or conservation, or any combination or part thereof, in accordance with an urban renewal plan.” C.R.S. 31-25-103(9)
 - Typically, an urban renewal plan contains a single project
 - Not likely that an urban renewal project would be added to a plan; however, possible that the project defined in a plan might evolve or change. Unclear whether this would be considered to constitute an “addition of an urban renewal project.”

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- an alteration in the boundaries of an urban renewal area
 - Under current law, governing body makes legislative determination whether change in the boundaries constitutes a substantial modification.
 - Under HB 15-1348, any alteration in the boundaries, whether substantial enough to require a substantial modification to the urban renewal plan, if occurring after January 1, 2016, will require that existing plan be brought into compliance with HB 15-1348.

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- or an extension of an urban renewal plan or the duration of a specific urban renewal project
 - Although unclear, “extension” probably refers to time – that is an extension of the expiration date of an urban renewal plan. Not technically possible under current law.
 - Typically, the duration of a project will coincide with the length of time during which collection of tax increment is authorized under the urban renewal plan, namely 25 years or until all debt used to finance the project is paid, whichever comes first
 - In plans covering a large area, such as a downtown, the overall “project” is probably “remediate blight within the area,” but might have individual “sub-projects,” such as awning or façade replacements or upgrades get added frequently.

Governor's Signing Statement

- “We are sensitive that participants in existing urban renewal plans should not be concerned that technical, interpretation, or implementation issues will substantially impair their existing rights or financial expectations.”

Governor's Signing Statement

- “To reassure existing urban renewal beneficiaries, we will work with the General Assembly at the outset of the 2016 legislative session on legislation that will help alleviate any perceived technical, implementation or interpretation issues with HB 15-1348. Working together with a commitment from General Assembly leaders, our proposal will be consistent with the intended effect of HB 15-1348: it will distinguish between urban renewal projects that are materially affected by a substantial modification (which will be described in additional detail) and those that are unaffected, for which the mediation provisions should not be invoked.”

Okay, HB 15-1348 applies to me. What do I have to do?

- Add commissioners to the Board;
- Negotiate with other taxing bodies;
- Mediate if no agreement reached.

Addition of Commissioners

- After January 1, 2016, each urban renewal board required to comply with HB 15-1348 must add three additional commissioners representing the following taxing bodies:
 - counties
 - special districts
 - school districts
- If the boundaries of the municipality extend into multiples of any of these, then the taxing bodies decide among themselves who the appointee is

Who can sit on the Board?

- Anyone appointed by the Board of County Commissioners, regardless of whether the urban renewal Board of Commissioners consists of appointed citizens or the governing body.
 - Note: the 2014 version of this legislation, HB 14-1375, and SB 15-135 required that the appointee be a resident of the municipality. HB 15-1348 contains no such requirement.
- While the county representative may be anyone appointed by the county or counties, the special district and school district representatives must be an elected board member.
- If the appointment of the three taxing body representatives creates an even number, the Mayor may appoint an additional board member to create an odd number.

Negotiation with Taxing Bodies

- Must “notify” each taxing entity prior to approval of an urban renewal plan prior to the adoption of any urban renewal plan that “allocates any taxes of any public body.”
- Notice, negotiation, and mediation provisions do not apply to urban renewal plans which allocate only sales tax increment.
- Note: urban renewal plans do not allocate “taxes” of any public body. Rather, plans allocate incremental property tax revenues attributable to the application of the mill levy of such taxing bodies to the increased value created by the urban renewal project. This is probably the intent, despite the incorrect terminology.

Negotiation with Taxing Bodies

- Notice must be no later than 90 days prior to public hearing at which urban renewal plan is scheduled to be adopted
- Then representatives of each such governing body and the municipality must “meet and attempt to negotiate an agreement” concerning what tax revenues may be included in the plan and how they will be spent
- Agreement may be in the form of a master agreement among all taxing bodies, or individual agreements with each taxing body

Negotiation with Taxing Bodies

- It appears that HB 15-1348 may make available incremental sales tax revenues of counties and special districts, if such taxing bodies agree.
- “Any such allocated shared tax revenues governed by any agreement are limited to all or any portion of the taxes levied upon taxable property by the public body within the area covered by the urban renewal plan in addition to any sales tax revenues generated within the area covered by the urban renewal plan by the imposition of the sales tax of the municipality ***and any other public body.***”
- Probably not in urban renewal plan, but in agreement, thus subject to annual appropriation.

“Mediation”

- If no agreement is reached after 120 days, parties must participate in a dispute resolution process; result is binding.
- The mediator will issue “findings of fact” as to “the appropriate allocation of costs and shall promptly transmit such information to the parties.”
- The subject of the mediation is “the issue of appropriate allocation of urban renewal project costs among the municipality and all other taxing entities whose taxes will be allocated” pursuant to the urban renewal plan.
- Mediator must issue findings of fact within ninety (90) days of the conclusion of the mediation.

“Mediation”

- Mediator must consider:
 - nature of project;
 - nature and relative size of revenue and other benefits expected to accrue to municipality and other taxing entities as a result of the project;
 - any legal limitations on the use of revenue belonging to the municipality or other taxing bodies; and
 - any capital or operating costs that are expected to result from the project.

“Mediation”

- The municipality may agree to the mediator’s findings by including in the urban renewal plan provisions that allocate municipal and “incremental tax revenues of taxing bodies in accordance with the cost allocations determined by the mediator” or by entering into an intergovernmental agreement with the taxing body providing an alternative cost allocation methodology.

Implementation

- Education and training
- Appointment of new board members
- Agreements with taxing bodies
- Analysis of existing urban renewal plans/financing
- Participate in 2016 legislative process