

HB3933



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3933

Introduced 1/10/2012, 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 in the Illinois Municipal Code. Provides that the joint review board shall appoint one of its members to preside over certain public hearings.

LRB097 15450 KMW 60550 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. Public hearing; joint review board.

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

1 approved and redevelopment projects that were designated
2 before the effective date of this amendatory Act of the 91st
3 General Assembly.

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

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

1 proposed redevelopment project area. The notice shall also be
2 provided by the municipality, regardless of its population, to
3 those organizations and residents that have registered with the
4 municipality for that information in accordance with the
5 registration guidelines established by the municipality under
6 Section 11-74.4-4.2.

7 With respect to a public hearing held on or after the
8 effective date of this amendatory Act of the 97th General
9 Assembly that requires the formation of a joint review board
10 under this Section, the joint review board shall appoint one of
11 its members to preside over the meeting.

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

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

26 (b) Prior to holding a public hearing to approve or amend a

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

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

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

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

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

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

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

26 The board shall base its recommendation to approve or

1 disapprove the redevelopment plan and the designation of the
2 redevelopment project area or the amendment of the
3 redevelopment plan or addition of parcels of property to the
4 redevelopment project area on the basis of the redevelopment
5 project area and redevelopment plan satisfying the plan
6 requirements, the eligibility criteria defined in Section
7 11-74.4-3, and the objectives of this Act.

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

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

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

1 hearing to a date certain, the municipality shall announce
2 during the public hearing the time, date, and location for the
3 reconvening of the public hearing. Any changes to the
4 redevelopment plan necessary to satisfy the issues set forth in
5 the joint review board report shall be the subject of a public
6 hearing before the hearing is adjourned if the changes would
7 (1) substantially affect the general land uses proposed in the
8 redevelopment plan, (2) substantially change the nature of or
9 extend the life of the redevelopment project, or (3) increase
10 the number of inhabited residential units to be displaced from
11 the redevelopment project area, as measured from the time of
12 creation of the redevelopment project area, to a total of more
13 than 10. Changes to the redevelopment plan necessary to satisfy
14 the issues set forth in the joint review board report shall not
15 require any further notice or convening of a joint review board
16 meeting, except that any changes to the redevelopment plan that
17 would add additional parcels of property to the proposed
18 redevelopment project area shall be subject to the notice,
19 public hearing, and joint review board meeting requirements
20 established for such changes by subsection (a) of Section
21 11-74.4-5.

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

1 for approval of the plan or amendment, excluding positions of
2 members that are vacant and those members that are ineligible
3 to vote because of conflicts of interest.

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

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

22 (d) After the effective date of this amendatory Act of the
23 91st General Assembly, a municipality shall submit in an
24 electronic format the following information for each
25 redevelopment project area (i) to the State Comptroller under
26 Section 8-8-3.5 of the Illinois Municipal Code and (ii) to all

1 taxing districts overlapping the redevelopment project area no
2 later than 180 days after the close of each municipal fiscal
3 year or as soon thereafter as the audited financial statements
4 become available and, in any case, shall be submitted before
5 the annual meeting of the Joint Review Board to each of the
6 taxing districts that overlap the redevelopment project area:

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

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

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

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

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

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

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

1 (B) all amounts deposited in the special tax
2 allocation fund by source;

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

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

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

22 (A) Street address.

23 (B) Approximate size or description of property.

24 (C) Purchase price.

25 (D) Seller of property.

26 (7) A statement setting forth all activities

1 undertaken in furtherance of the objectives of the
2 redevelopment plan, including:

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

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

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

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

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

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

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

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

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

12 (A) copies of any official statements; and

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

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

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

17 (10) A list of all intergovernmental agreements in
18 effect during the fiscal year to which the municipality is
19 a party and an accounting of any moneys transferred or
20 received by the municipality during that fiscal year
21 pursuant to those intergovernmental agreements.

22 (d-1) Prior to the effective date of this amendatory Act of
23 the 91st General Assembly, municipalities with populations of
24 over 1,000,000 shall, after adoption of a redevelopment plan or
25 project, make available upon request to any taxing district in
26 which the redevelopment project area is located the following

1 information:

2 (1) Any amendments to the redevelopment plan, the
3 redevelopment project area, or the State Sales Tax
4 Boundary; and

5 (2) In connection with any redevelopment project area
6 for which the municipality has outstanding obligations
7 issued to provide for redevelopment project costs pursuant
8 to Section 11-74.4-7, audited financial statements of the
9 special tax allocation fund.

10 (e) The joint review board shall meet annually 180 days
11 after the close of the municipal fiscal year or as soon as the
12 redevelopment project audit for that fiscal year becomes
13 available to review the effectiveness and status of the
14 redevelopment project area up to that date.

15 (f) (Blank).

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

25 (h) On and after the effective date of this amendatory Act
26 of the 96th General Assembly, the State Comptroller must post

1 on the State Comptroller's official website the information
2 submitted by a municipality pursuant to subsection (d) of this
3 Section. The information must be posted no later than 45 days
4 after the State Comptroller receives the information from the
5 municipality. The State Comptroller must also post a list of
6 the municipalities not in compliance with the reporting
7 requirements set forth in subsection (d) of this Section.

8 (i) No later than 10 years after the corporate authorities
9 of a municipality adopt an ordinance to establish a
10 redevelopment project area, the municipality must compile a
11 status report concerning the redevelopment project area. The
12 status report must detail without limitation the following: (i)
13 the amount of revenue generated within the redevelopment
14 project area, (ii) any expenditures made by the municipality
15 for the redevelopment project area including without
16 limitation expenditures from the special tax allocation fund,
17 (iii) the status of planned activities, goals, and objectives
18 set forth in the redevelopment plan including details on new or
19 planned construction within the redevelopment project area,
20 (iv) the amount of private and public investment within the
21 redevelopment project area, and (v) any other relevant
22 evaluation or performance data. Within 30 days after the
23 municipality compiles the status report, the municipality must
24 hold at least one public hearing concerning the report. The
25 municipality must provide 20 days' public notice of the
26 hearing.

1 (j) Beginning in fiscal year 2011 and in each fiscal year
2 thereafter, a municipality must detail in its annual budget (i)
3 the revenues generated from redevelopment project areas by
4 source and (ii) the expenditures made by the municipality for
5 redevelopment project areas.

6 (Source: P.A. 96-1335, eff. 7-27-10.)