# HOUSING AND TRANSIT REINVESTMENT ZONE AMENDMENTS

# SB 140 WHITE PAPER

## UTAH LEAGUE OF CITIES AND TOWNS

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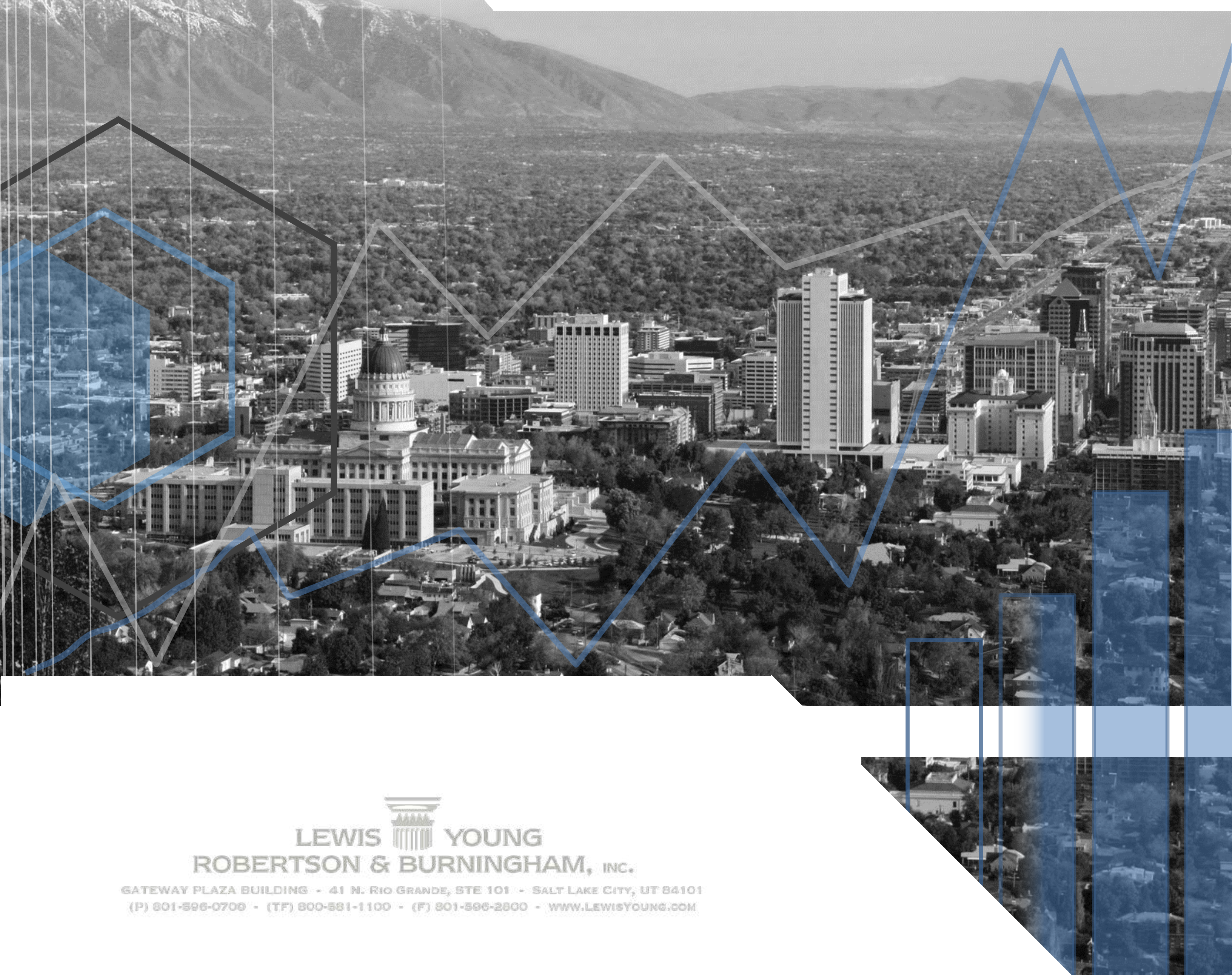

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# TABLE OF CONTENTS

# WHITE PAPER OVERVIEW

Lewis Young Robertson & Burningham, Inc. ("LYRB"), working closely with the Utah League of Cities and Towns ("ULCT") during the 2022 General Legislative Session, was asked to draft a white paper summarizing Senate Bill 140: Housing and Transit Reinvestment Zone Amendments from the 2022 General Session. The bill's Chief Sponsor was Senator Wayne Harper, and the House Sponsor was Representative Stephen Handy.

This White Paper will address the following:

## Bill Summary and Highlighted Provisions

An overview of the bill and major provisions enacted.

## Background

A brief background of the bill, including information about SB 217 from the 2021 Legislative Session, the Housing and Transit Reinvestment Zones Act.

## Changes introduced by the Bill

The bill changes existing legislation (UCA 59 - Revenue and Taxation and UCA 63N-3-6 - Housing and Transit Reinvestment Zone Act) regarding Housing and Transit Reinvestment Zones. This section goes over the changes in detail.

## Impact and Potential Consequences of Amendments

This section looks at expected and potential impacts as a result of the changes introduced by SB 140.

# SENATE BILL 140 SUMMARY AND HIGHLIGHTED PROVISIONS

### LEGISLATION SUMMARY

Senate Bill 140 (SB 140) amends provisions related to housing and transit reinvestment zones, as enacted by the Housing and Transit Reinvestment Zone (HTRZ) Act of 2021. This bill continues the work that was started with Senate Bill 217 from the 2021 Legislative Session.

Over the year since the HTRZ Act has been in place, feedback from stakeholders has provided some ways to improve the efforts to maximize the use of developable land around transit-oriented development stations.

### HIGHLIGHTED PROVISIONS

Key provisions and requirements of SB 140 include:

i. allows housing and transit reinvestment zones around light rail and bus rapid transit facilities (63N-3-603)
ii. amends provisions related to the size limitations and number of allowed housing and transit reinvestment zones;
iii. requires equal participation by all local taxing entities;
iv. defines the term of each type of housing and transit reinvestment zone;
v. amends the membership of the housing and transit reinvestment zone committee;
vi. requires relevant zoning changes be made before the housing and transit reinvestment zone may be approved by the committee;
vii. amends provisions related to the efficiency and feasibility analysis of a housing and transit reinvestment zone; and
viii. makes technical changes.

## BACKGROUND

To understand SB 140, one needs to have a good understanding of SB 217, the Housing and Transit Reinvestment Zone Act, which was passed in the 2021 legislative session. This legislation was intended to help alleviate the housing affordability crisis as well as traffic and congestion issues along the Wasatch Front. SB 217 allowed for the creation and administration HTRZs around the UTA FrontRunner commuter rail stations and provided guidance for development of these zones.

SB 217's objectives were to:

- Utilize HTRZs as a tool to promote housing affordability and sustainable "smart-growth" initiatives that are consistent with Wasatch Choice 2050 Multi-modal transportation and connectivity
- Encourage transformative mixed-use development and collaborative investment in transit and transportation in strategic areas
- Maximize available planning an economic development tools to strengthen and grow major transit corridors
- Increase access to employment and educational opportunities

- Improve water conservation and air quality resources through efficient land use and better utilization of transit opportunities

Additionally, the HTRZs provided an alternative public financing tool to assist in regional planning initiatives where local tools (CRAs) are not proving effective to promote the desired mixed-use and transit-oriented projects. Proximity to transit and transportation is a significant measuring stick to create these types of projects. Although CRAs and local tax increment tools are potential mechanisms for assisting these types of projects, some local governments (school districts and counties) have been less inclined to approve CRAs for these types of projects. Thus, the legislature saw it necessary to provide a more regional/state-oriented tool to encourage these types of development activities.

To accomplish these objectives, SB 217 enacted the following:

i. established objectives and requirements for a municipality to create a HTRZ to capture tax increment revenue within a defined area around certain public transit facilities, specifically FrontRunner stations
ii. a municipality may submit to the Governor's Office of Economic Opportunity a proposal to establish a HTRZ
iii. the Governor's Office of Economic Opportunity is then required to perform an analysis of the proposed HTRZ with feasibility and efficiency as important considerations
iv. a committee is created to review the HRTZ proposal and approve it if certain defined criteria are met
v. local taxing entities are obligated to participate in the HTRZ if approved by the review committee and when certain statutory requirements are met
vi. tax increment revenue generated by the HRTZ is subject to certain administrative and use restrictions as well as protections
vii. requires a certain portion of state sales and use tax increment generated within a sales and use tax boundary that corresponds to the HTRZ boundary to be deposited into the Transit and Transportation Investment Fund and amended provisions related to the prioritization of transportation to a HRTZ project

Through these changes, the law intended to encourage development around FrontRunner stations, known as transit-oriented development or TODs, through tax-increment financing and collaborative planning efforts at the state and local level. The following three areas are of interest for HTRZ development.

### LAND AND LOCATION CONSTRAINTS

HTRZs are to be located within a 1/3-mile radius of a FrontRunner station and limited to a total of 125 acres of development. The 125 acres do not have to be contiguous, but they must all be located within the 1/3-mile radius.

### HOUSING AND DEVELOPMENT CONSIDERATIONS

SB 217 also required that at least 10% of the housing proposed in the HTRZ be affordable housing as defined by Utah State Code 11-38-102. Furthermore, at least 51% of the developable area in the zone is required to be residential development with an average density of 50 units per acre.

### TAX INCREMENT FINANCING REQUIREMENTS

As noted above, the bill also addressed the use of tax-increment in relation to transit-oriented development. It stipulates that a maximum of 80% of each taxing entity's tax increment above the base year that is set by the HTRZ proposal. A term may be no more than 25 consecutive years for each parcel within a period of 45 years and may not exceed the amount approved within the HTRZ proposal. The proposal should also calculate the expected sales and use tax and analyze any gaps in the market that would necessitate the use of tax-increment financing as an incentive for developers to overcome such gaps.

## CHANGES INTRODUCED BY SENATE BILL 140

The changes introduced via SB 140 are intended to continue the work of creating thriving, living, and walkable communities that meet the housing and transportation needs of Utah's growing population and simultaneously addressing issues such as increased vehicle traffic and pollution that accompanies growth. Over the past year, interested parties and stakeholders have provided input regarding desired amendments to the Housing and Transit Reinvestment Zone Act, particularly to maximize the utility and benefit of the developments around mass transit stations.

The following bullets outline the major changes presented by SB 140:

- Adds light rail (TRAX) and bus rapid transit (BRT) stations to the eligible development zones, (63N-3-603)
  - development must within ¼ mile of the TRAX or BRT station
- For first class municipalities with a population greater than 150,000, it changes the distance from the station that the HTRZ can be located from 1/3 mile to ½ mile (63N-3-603)
- Broadens the housing types that can be included in the zones (63N-3-603)
  - Multi-family is no longer a strict stipulation
- Changes the 50 unit per acre housing density requirement to an *average* dwelling unit per acre of 50 for the entire development, meaning some areas could be higher or lower than 50 units (63N-3-603)
  - Density around BRTs may be even lower
- Changes the tax increment term duration from 25 consecutive yeas on each parcel to 15 and the not to exceed amount from 45 to 30 years (63N-3-603)
- Prohibits developers in an HTRZ from receiving a direct subsidy
- Reduces the tax increment capture to 60% to 40% depending on housing density (63N-3-603)
- Clarifies and tightens the items to be included in the analysis before one of these zones can be established, intended to better prove the efficacy of the proposed development (63N-3-604)
  - Impact on air quality
  - Impact of the development on parking within the HTRZ
  - an evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the housing and transit reinvestment zone proposal and enable the proposed development to occur; and
  - based on the market analysis and other findings, an opinion relative to the *minimum* amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1)
- Sets a maximum number of HTRZs per county at: (63N-3-603)
  - Eight (8) light rail
  - Three (3) bus rapid transit

- Changes the make-up of the Housing and Transit Reinvestment Zone Committee (63N-3-605)
  - Removes the one representative from each relevant metropolitan planning organization
  - Removes the member designated by the State Board of Education
  - Adds an individual from the Office of the State Treasurer
  - Adds an individual from the Utah State Tax Commission
- Each affected taxing municipality is required to participate at the same rate as a participating county (63N-3-605)

## IMPACT AND POTENTIAL CONSEQUENCES OF AMENDMENTS

The changes to the Housing and Transit Reinvestment Zone Act introduced by SB 140 are intended to refine the legislation so that it works better in practice for the end-users and moves the idea in working practice closer to the objectives it was set up for.

### LIGHT RAIL AND BUS RAPID TRANSIT

Expanding the HTRZ areas beyond the FrontRunner stations to TRAX and BRT stations allows full consideration and use of all types of mass transit along the Wasatch Front. The need for more efficient travel options and housing affordability exists throughout the valley and not just in those communities that have commuter rail stations (currently 15 stations with one on the way).

### LAND AND LOCATION CONSTRAINTS

The extension of the radius in which an HTRZ may fall to ½ mile for first class municipalities with a population greater than 150,000 will currently affect only Salt Lake City but will likely be available to West Valley City in the near future.

The limit placed on the number of HTRZs available per county would be best managed through regional current and long-range planning. Taking into consideration where growth is occurring and where transportation and housing needs are likely to need attention as communities grow and redevelop will allow for the maximization of the eight TRAX and three BRT stations available per county.

### HOUSING AND DEVELOPMENT CONSIDERATIONS

Changing density requirements and broadening the types of housing allowed in HTRZs will increase the options available to developers and their projects. With greater flexibility in what is allowed in a HTRZ, a development may also better represent the character that fits within a community.

Once again, HTRZs provide an alternative public financing tool to assist in regional planning initiatives where existing tools like CRAs are not proving effective to promote the desired mixed-use and transit-oriented projects. Although CRAs and local tax increment tools are potential mechanisms for assisting these types of projects, some local governments have been less inclined to approve CRAs for these types of projects. SB 140 provides a tool that encourages partnership on desired mixed-use and transit-oriented projects and “smart growth”.

### TAX INCREMENT FINANCING REQUIREMENTS

The amendments regarding tax increment financing are largely directed toward ensuring that the public interest is being served when tax dollars are used to help fund a project. A reduced time frame for project areas means that projects must be more efficient in providing their financial benefits to the community. HTRZ durations will not be so lengthy that they extend beyond the useful life of the project itself.

The requirement that taxing entities must participate at equal levels as the county means that greater cooperation must exist among jurisdictions.

### HTRZ Proposal Analysis

The changes to the analysis required for a HTRZ proposal are meant to provide better assurance that the HTRZ will indeed yield the benefits it proposes. There are environmental (air quality), quality of life (parking), and financial requirements (tax increment yield and minimum public financing required) that will be scrutinized to ensure that HTRZ developments are likely to function as intended and meet the objectives of this legislation.

# APPENDIX – SENATE BILL 140

The following hyperlink will access Senate Bill 140 on the Utah State Legislature's website:

SB0140 (utah.gov)