

Superseded 5/14/2014

**59-2-919 Notice, public hearing, and resolution requirements for certain tax increases --
Exceptions -- Applicability of provisions.**

- (1) As used in this section:
 - (a) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from new growth as defined in Section 59-2-924.
 - (b) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.
 - (c) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.
- (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity:
 - (a) to the extent required by this section, meets the:
 - (i) notice requirements of this section; and
 - (ii) public hearing requirements of this section; and
 - (b) adopts a resolution in accordance with this section.
- (3)
 - (a) Except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:
 - (i)
 - (A) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing at which the calendar year taxing entity's annual budget is adopted; and
 - (B) before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate:
 - (I) provides notice by meeting the advertisement requirements of Subsections (6) and (7); or
 - (II) provides a notice by mail:
 - (Aa) on or no earlier than 14 days before the date the treasurer furnishes the notice required by Section 59-2-1317 for the calendar year immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;
 - (Bb) before the calendar year taxing entity conducts the public meeting at which the calendar year taxing entity's annual budget is adopted; and
 - (Cc) as provided in Subsection (3)(b); and
 - (ii) conducts a public hearing in accordance with Subsections (8) and (9):
 - (A) on or before the calendar year taxing entity conducts the public meeting at which the calendar year taxing entity's annual budget is adopted; and
 - (B) if the calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate.
 - (b) For a calendar year taxing entity that provides the notice described in Subsection (3)(a)(i)(B)(II), the notice:
 - (i) shall be mailed to each owner of property:
 - (A) within the calendar year taxing entity; and
 - (B) listed on the assessment roll;
 - (ii) shall be printed on a form:
 - (A) developed by the commission; and
 - (B) that, as determined by the commission, may be combined with:

- (I) a notice described in Subsection (3)(a)(i)(B)(II) provided by one or more other calendar year taxing entities; or
- (II) the notice required by Section 59-2-1317;
- (iii) shall contain for each property described in Subsection (3)(b)(i):
 - (A) the value of the property for the calendar year immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;
 - (B) the tax on the property for the calendar year immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate; and
 - (C) the estimated tax on the property:
 - (I) for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate; and
 - (II) calculated on the basis of data for the calendar year immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;
- (iv) shall contain the following statement: "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";
- (v) shall state the date, time, and place of the public hearing that will be held to discuss the calendar year taxing entity's annual budget; and
- (vi) may contain other property tax information approved by the commission.
- (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:
 - (a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and
 - (b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.
- (5)
 - (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), a taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if:
 - (A) the taxing entity is a party to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, that creates an interlocal entity to provide fire protection, emergency, and emergency medical services;
 - (B) the tax rate increase is approved by the taxing entity's voters at an election held for that purpose on or before December 31, 2010;
 - (C) the purpose of the tax rate increase is to pay for fire protection, emergency, and emergency medical services provided by the interlocal entity; and
 - (D) at least 30 days before the taxing entity's annual budget hearing, the taxing entity:
 - (I) adopts a resolution certifying that:

- (Aa) the taxing entity will dedicate all revenue from the tax rate increase exclusively to pay for fire protection, emergency, and emergency medical services provided by the interlocal entity; and
- (Bb) the amount of other revenues, independent of the revenue generated from the tax rate increase, that the taxing entity spends for fire protection, emergency, and emergency medical services each year after the tax rate increase will not decrease below the amount spent by the taxing entity during the year immediately before the tax rate increase without a corresponding decrease in the taxing entity's property tax revenues used in calculating the taxing entity's certified tax rate; and
- (II) sends a copy of the resolution to the commission.
- (ii) The exception under Subsection (5)(b)(i) from the notice and public hearing requirements of Subsection (3) or (4) does not apply to an increase in a taxing entity's tax rate that occurs after December 31, 2010, even if the tax rate increase is approved by the taxing entity's voters before that date.
- (c) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:
 - (i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or
 - (ii) the taxing entity:
 - (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and
 - (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.
- (6)
 - (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:
 - (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;
 - (ii) electronically in accordance with Section 45-1-101; and
 - (iii) on the Utah Public Notice Website created in Section 63F-1-701.
 - (b) The advertisement described in Subsection (6)(a)(i) shall:
 - (i) be no less than 1/4 page in size;
 - (ii) use type no smaller than 18 point; and
 - (iii) be surrounded by a 1/4-inch border.
 - (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.
 - (d) It is the intent of the Legislature that:
 - (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and
 - (ii) the newspaper or combination of newspapers selected:
 - (A) be of general interest and readership in the taxing entity; and
 - (B) not be of limited subject matter.
 - (e)
 - (i) The advertisement:
 - (A) described in Subsection (6)(a)(i) shall:
 - (I) except as provided in Subsection (6)(e)(ii), be run once each week for the two weeks:
 - (Aa) before a taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed; and

- (Bb) if a calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate; and
- (II) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be not less than seven days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; or
- (B) described in Subsection (6)(a)(ii) shall:
 - (I) be published two weeks:
 - (Aa) before a taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed; and
 - (Bb) if a calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate; and
 - (II) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be not less than seven days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.
- (ii) If a taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i)(A), but shall run the advertisement once during the week:
 - (A) before the taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed; and
 - (B) if a calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate.
- (f)
 - (i) For purposes of Subsection (3)(a)(i)(A) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY) The (name of the taxing entity) is proposing to increase its property tax revenue. The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$_____ to \$_____, which is \$_____ per year. The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$_____ to \$_____, which is \$_____ per year. If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding new growth. All concerned citizens are invited to a public hearing on the tax increase.
PUBLIC HEARING Date/Time:(date) (time) Location:(name of meeting place and address of meeting place) To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."
 - (ii) For purposes of Subsection (3)(a)(i)(B)(I), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY) The (name of the taxing entity) is proposing to increase its property tax revenue. The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$_____ to \$_____, which is \$_____ per year. The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$_____ to \$_____, which is \$_____ per year. If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding new growth.of taxing entity) property tax revenue from new growth and other sources will increase from \$_____ to \$_____.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING Date/Time:(date) (time) Location:(name of meeting place and address of meeting place) To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity except for a calendar year taxing entity that provides the notice described in Subsection (3)(a)(i)(B)(II) of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8)

(a)

(i) A taxing entity shall on or before March 1 notify the county legislative body in which the taxing entity is located of the date, time, and place of the first public hearing at which the taxing entity's annual budget will be discussed.

(ii) A county that receives notice from a taxing entity under Subsection (8)(a)(i) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i).

(b)

(i) A public hearing described in this section shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in this section shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c)

(i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in this section at the same time as the public hearing of another overlapping taxing entity in the same county.

- (ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in this section into one public hearing.
 - (d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.
 - (e) A taxing entity shall hold a public hearing described in this section beginning at or after 6 p.m.
- (9)
- (a) If a taxing entity does not make a final decision on budgeting an increased amount of ad valorem tax revenue at a public hearing described in this section, the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the increased amount of ad valorem tax revenue.
 - (b)
 - (i) If a calendar year taxing entity that conducts a public hearing in accordance with Subsection (3)(b)(ii) does not adopt a resolution levying a tax rate on the day of the public hearing, the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider adopting a resolution levying the tax rate.
 - (ii) If a taxing entity except for a taxing entity described in Subsection (5)(a) or (b) will consider adopting a resolution levying a tax rate at a day and time that is more than two weeks after the public hearing described in Subsection 59-2-919.1(2)(c)(v), the taxing entity shall meet the notice requirements of Subsection (3)(a)(i)(B)(I).
- (10)
- (a) A taxing entity may adopt a resolution levying a tax rate that exceeds the taxing entity's certified tax rate if the taxing entity, to the extent required by this section, meets the:
 - (i) notice requirements of this section; and
 - (ii) public hearing requirements of this section.
 - (b) A public hearing on levying a tax rate that exceeds a taxing entity's certified tax rate may coincide with a public hearing on the taxing entity's proposed annual budget.
- (11) The amendments to this section in Laws of Utah 2009, Chapter 204, apply to:
- (a) for a fiscal year taxing entity, the fiscal year that begins on July 1, 2009; or
 - (b) for a calendar year taxing entity, the fiscal year that begins on January 1, 2010.