

PUBLIC HEARINGS ON PROPERTY TAX

INCREASES

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill modifies the Property Tax Act to address certain requirements for a taxing entity to provide notice of public hearings.

Highlighted Provisions:

This bill:

- ▶ amends the format of the "Truth in Taxation" newspaper advertisement;
- ▶ excludes new growth from the taxing entity's budgeted revenue amounts for purposes of determining the taxing entity's percentage increase listed in a "Truth in Taxation" newspaper advertisement;
- ▶ modifies the advertisement requirements for a taxing entity when the taxing entity's public hearing is advertised by the county auditor;
- ▶ requires certain taxing entities to notify a county auditor of public hearings related to tax increases;
- ▶ requires the county auditor to compile the notices of public hearings;
- ▶ requires publication of the compiled information;
- ▶ requires certain taxing entities to provide information to taxpayers;
- ▶ provides for the payment of costs;
- ▶ addresses the scope of the provision; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

30 **Other Special Clauses:**

31 This bill takes effect on January 1, 2010.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-2-918**, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236

35 **59-2-919**, as last amended by Laws of Utah 2008, Chapters 231 and 301

36 ENACTS:

37 **59-2-919.2**, Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **59-2-918** is amended to read:

41 **59-2-918. Advertisement of proposed tax increase -- Notice -- Contents.**

42 (1) (a) Except as provided in Subsection (1)(b), a taxing entity may not budget an
43 increased amount of ad valorem tax revenue exclusive of revenue from new growth as defined
44 in Subsection 59-2-924(4) unless it advertises its intention to do so at the same time that it
45 advertises its intention to fix its budget for the forthcoming fiscal year.

46 (b) (i) Notwithstanding Subsection (1)(a), a taxing entity is not required to meet the
47 advertisement or hearing requirements of this section if:

48 (A) the taxing entity is expressly exempted by law from complying with the
49 requirements of this section; or

50 (B) the increased amount of ad valorem tax revenue results from a tax rate increase
51 that is exempted under Subsection 59-2-919(2)(a)(ii)(B) from the advertisement and hearing
52 requirements of Section 59-2-919.

53 (ii) Notwithstanding Subsection (1)(a), a taxing entity is not required to meet the
54 advertisement requirements of this section if:

55 (A) Section 53A-17a-133 allows the taxing entity to budget an increased amount of ad
56 valorem property tax revenue without having to comply with the advertisement requirements
57 of this section; or

58 (B) the taxing entity:
 59 (I) collected less than \$20,000 in ad valorem tax revenues for the previous fiscal year;
 60 and
 61 (II) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
 62 revenues.

63 (2) (a) For taxing entities operating under a July 1 through June 30 fiscal year, the
 64 advertisement required by this section may be combined with the advertisement required by
 65 Section 59-2-919.

66 (b) For taxing entities operating under a January 1 through December 31 fiscal year,
 67 the advertisement required by this section shall meet the size, type, placement, and frequency
 68 requirements established under Section 59-2-919.

69 (3) The form of the advertisement required by this section shall meet the size, type,
 70 placement, and frequency requirements established under Section 59-2-919 and shall be
 71 substantially as follows:

72 "NOTICE OF PROPOSED TAX INCREASE
 73 (NAME OF TAXING ENTITY)

74 The (name of the taxing entity) is proposing to increase its property tax revenue.

75 [~~● If the proposed budget is approved, this would be an increase of _____% above~~
 76 ~~the (name of the taxing entity) property tax budgeted revenue for the prior~~
 77 ~~year.]~~

78 ● The (name of the taxing entity) tax on a (insert the average value of a residence
 79 in the taxing entity rounded to the nearest thousand dollars) residence would
 80 increase from \$_____ to \$_____, which is \$_____ per year.

81 ● The (name of the taxing entity) tax on a (insert the value of a business having
 82 the same value as the average value of a residence in the taxing entity) business
 83 would increase from \$_____ to \$_____, which is \$_____ per year.

84 ● If the proposed budget is approved, (name of the taxing entity) would increase
 85 its property tax budgeted revenue by _____% above last year's property tax

86 budgeted revenue excluding new growth.

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

88 PUBLIC HEARING

89 Date/Time: (date) (time)

90 Location: (name of meeting place and address of meeting place)

91 To obtain more information regarding the tax increase, citizens may contact the (name
92 of the taxing entity) at (phone number of taxing entity)."

93 (4) If a final decision regarding the budgeting of an increased amount of ad valorem
94 tax revenue is not made at the public hearing described in Subsection (3), the taxing entity
95 shall announce at the public hearing the scheduled time and place for consideration and
96 adoption of the proposed budget increase.

97 (5) (a) Each taxing entity operating under the January 1 through December 31 fiscal
98 year shall by March 1 notify the county of the date, time, and place of the public hearing at
99 which the budget for the following fiscal year will be considered.

100 (b) The county shall include the information described in Subsection (5)(a) with the
101 tax notice.

102 (6) A taxing entity shall hold a public hearing under this section beginning at or after
103 6 p.m.

104 Section 2. Section **59-2-919** is amended to read:

105 **59-2-919. Resolution proposing tax increases -- Hearing -- Dates.**

106 (1) A tax rate in excess of the certified tax rate may not be levied until a resolution has
107 been approved by the taxing entity in accordance with this section.

108 (2) (a) (i) The taxing entity shall advertise its intent to exceed the certified tax rate in a
109 newspaper or combination of newspapers of general circulation in the taxing entity.

110 (ii) Notwithstanding Subsection (2)(a)(i), a taxing entity is not required to meet the
111 advertisement or hearing requirements of this section if:

112 (A) the taxing entity is expressly exempted by law from complying with the
113 requirements of this section; or

114 (B) (I) the taxing entity is a party to an interlocal agreement under Title 11, Chapter
115 13, Interlocal Cooperation Act, that creates an interlocal entity to provide fire protection,
116 emergency, and emergency medical services;

117 (II) the tax rate increase is approved by the taxing entity's voters at an election held for
118 that purpose on or before December 31, 2010;

119 (III) the purpose of the tax rate increase is to pay for fire protection, emergency, and
120 emergency medical services provided by the interlocal entity; and

121 (IV) at least 30 days before its annual budget hearing, the taxing entity:

122 (Aa) adopts a resolution certifying that the taxing entity will dedicate all revenue from
123 the tax rate increase exclusively to pay for fire protection, emergency, and emergency medical
124 services provided by the interlocal entity and that the amount of other revenues, independent
125 of the revenue generated from the tax rate increase, that the taxing entity spends for fire
126 protection, emergency, and emergency medical services each year after the tax rate increase
127 will not decrease below the amount spent by the taxing entity during the year immediately
128 before the tax rate increase without a corresponding decrease in the taxing entity's property tax
129 revenues used in calculating the taxing entity's certified tax rate; and

130 (Bb) sends a copy of the resolution to the commission.

131 (iii) The exception under Subsection (2)(a)(ii)(B) from the advertisement and hearing
132 requirements of this section does not apply to an increase in a taxing entity's tax rate that
133 occurs after December 31, 2010, even if the tax rate increase is approved by the taxing entity's
134 voters before that date.

135 (iv) Notwithstanding Subsection (2)(a)(i), a taxing entity is not required to meet the
136 advertisement requirements of this section if:

137 (A) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that
138 certified tax rate without having to comply with the advertisement requirements of this
139 section; or

140 (B) the taxing entity:

141 (I) collected less than \$20,000 in ad valorem tax revenues for the previous fiscal year;

142 and

143 (II) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
144 revenues.

145 (b) The advertisement described in this section shall:

146 (i) be no less than 1/4 page in size;

147 (ii) use type no smaller than 18 point; and

148 (iii) be surrounded by a 1/4-inch border.

149 (c) The advertisement described in this section may not be placed in that portion of the
150 newspaper where legal notices and classified advertisements appear.

151 (d) It is the intent of the Legislature that:

152 (i) whenever possible, the advertisement described in this section appear in a
153 newspaper that is published at least one day per week; and

154 (ii) the newspaper or combination of newspapers selected:

155 (A) be of general interest and readership in the taxing entity; and

156 (B) not be of limited subject matter.

157 (e) The advertisement described in this section shall:

158 (i) except as provided in Subsection (2)(g), be run once each week for the two weeks
159 preceding the adoption of the taxing entity's:

160 (A) final budget; [and] or

161 (B) final tax rate; and

162 (ii) state that the taxing entity will meet on a certain day, time, and place fixed in the
163 advertisement, which shall be not less than seven days after the day the first advertisement is
164 published, for the purpose of hearing comments regarding any proposed increase and to
165 explain the reasons for the proposed increase.

166 (f) The meeting on the proposed increase may coincide with the hearing on the
167 proposed budget of the taxing entity.

168 (g) If a taxing entity's public hearing information is published by the county auditor in
169 accordance with Section 59-2-919.2, the taxing entity is not subject to the requirement to run

170 the advertisement twice, as required in Subsection (2)(e)(i), but shall run the advertisement
171 once during the week preceding the adoption of the taxing entity's:

172 (i) final budget; or

173 (ii) final tax rate.

174 (3) The form and content of the notice shall be substantially as follows:

175 "NOTICE OF PROPOSED TAX INCREASE

176 (NAME OF TAXING ENTITY)

177 The (name of the taxing entity) is proposing to increase its property tax revenue.

178 [~~● If the proposed budget is approved, this would be an increase of _____% above~~
179 ~~the (name of the taxing entity) property tax budgeted revenue for the prior~~
180 ~~year.]~~

181 ● The (name of the taxing entity) tax on a (insert the average value of a residence
182 in the taxing entity rounded to the nearest thousand dollars) residence would
183 increase from \$_____ to \$_____, which is \$_____ per year.

184 ● The (name of the taxing entity) tax on a (insert the value of a business having
185 the same value as the average value of a residence in the taxing entity) business
186 would increase from \$_____ to \$_____, which is \$_____ per year.

187 ● If the proposed budget is approved, (name of the taxing entity) would increase
188 its property tax budgeted revenue by _____% above last year's property tax
189 budgeted revenue excluding new growth.

190 (Name of taxing entity) property tax revenue from new growth and other sources will
191 increase from \$_____ to \$_____.

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

193 PUBLIC HEARING

194 Date/Time: (date) (time)

195 Location: (name of meeting place and address of meeting place)

196 To obtain more information regarding the tax increase, citizens may contact the (name
197 of the taxing entity) at (phone number of taxing entity)."

198 (4) The commission:
199 (a) shall adopt rules governing the joint use of one advertisement under this section or
200 Section 59-2-918 by two or more taxing entities; and
201 (b) may, upon petition by any taxing entity, authorize either:
202 (i) the use of weekly newspapers in counties having both daily and weekly newspapers
203 where the weekly newspaper would provide equal or greater notice to the taxpayer; or
204 (ii) the use of a commission-approved direct notice to each taxpayer if the:
205 (A) cost of the advertisement would cause undue hardship; and
206 (B) direct notice is different and separate from that provided for in Section
207 59-2-919.1.
208 (5) (a) The taxing entity, after holding a hearing as provided in this section, may adopt
209 a resolution levying a tax rate in excess of the certified tax rate.
210 (b) If a resolution adopting a tax rate is not adopted on the day of the public hearing,
211 the scheduled time and place for consideration and adoption of the resolution shall be
212 announced at the public hearing.
213 (c) If a resolution adopting a tax rate is to be considered at a day and time that is more
214 than two weeks after the public hearing described in Subsection 59-2-919.1(2)(c)(v), a taxing
215 entity, other than a taxing entity described in Subsection (2)(a)(ii), shall advertise the date of
216 the proposed adoption of the resolution in the same manner as provided under Subsections (2)
217 and (3).
218 (6) (a) All hearings described in this section shall be open to the public.
219 (b) The governing body of a taxing entity conducting a hearing shall permit all
220 interested parties desiring to be heard an opportunity to present oral testimony within
221 reasonable time limits.
222 (7) (a) Each taxing entity shall notify the county legislative body by March 1 of each
223 year of the date, time, and place a public hearing is held by the taxing entity pursuant to this
224 section.
225 (b) A taxing entity may not schedule a hearing described in this section at the same

226 time as another overlapping taxing entity in the same county, but all taxing entities in which
227 the power to set tax levies is vested in the same governing board or authority may consolidate
228 the required hearings into one hearing.

229 (c) The county legislative body shall resolve any conflicts in hearing dates and times
230 after consultation with each affected taxing entity.

231 (8) A taxing entity shall hold a public hearing under this section beginning at or after
232 6 p.m.

233 Section 3. Section **59-2-919.2** is enacted to read:

234 **59-2-919.2. Consolidated advertisement of public hearings.**

235 (1) (a) Except as provided in Subsection (1)(b), on the same day on which a taxing
236 entity provides the notice to the county required under Subsection 59-2-919(7), the taxing
237 entity shall provide to the county auditor the information required by Subsection 59-2-919(7).

238 (b) A taxing entity is not required to notify the county auditor of the taxing entity's
239 public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the
240 advertisement requirements of Section 59-2-919.

241 (2) If as of July 22, two or more taxing entities notify the county auditor under
242 Subsection (1), the county auditor shall by no later than July 22 of each year:

243 (a) compile a list of the taxing entities that notify the county auditor under Subsection
244 (1);

245 (b) include on the list described in Subsection (2)(a), the following information for
246 each taxing entity on the list:

247 (i) the name of the taxing entity;

248 (ii) the date, time, and location of the public hearing required under Section 59-2-919;

249 (iii) the average dollar increase on a residence in the taxing entity that the proposed
250 tax increase would generate; and

251 (iv) the average dollar increase on a business in the taxing entity that the proposed tax
252 increase would generate;

253 (c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that

254 notifies the county auditor under Subsection (1); and

255 (d) in addition to the requirements of Subsection (3), if the county has a webpage,
256 publish a copy of the list described in Subsection (2)(a) on the county's webpage until
257 December 31.

258 (3) (a) At least two weeks before any public hearing included in the list under
259 Subsection (2) is held, the county auditor shall publish:

260 (i) the list compiled under Subsection (2); and

261 (ii) a statement that:

262 (A) the list is for informational purposes only;

263 (B) the list should not be relied on to determine a person's tax liability under this
264 chapter; and

265 (C) for specific information related to the tax liability of a taxpayer, the taxpayer
266 should review the taxpayer's tax notice received under Section 59-2-919.1.

267 (b) The information described in Subsection (3)(a) shall be published:

268 (i) in no less than 1/4 page in size;

269 (ii) in type no smaller than 18 point; and

270 (iii) surrounded by a 1/4-inch border.

271 (c) The published information described in Subsection (3)(a) may not be placed in the
272 portion of a newspaper where a legal notice or classified advertisement appears.

273 (d) A county auditor shall publish the information described in Subsection (3)(a):

274 (i) in a newspaper or combination of newspapers that are:

275 (A) published at least one day per week;

276 (B) of general interest and readership in the county; and

277 (C) not of limited subject matter; and

278 (ii) once each week for the two weeks preceding the first hearing included in the list
279 compiled under Subsection (2).

280 (4) A taxing entity that notifies the county auditor under Subsection (1) shall provide
281 the list described in Subsection (2)(c) to a person:

282 (a) who attends a public hearing of the taxing entity held in accordance with the
283 requirements of Section 59-2-919; or
284 (b) who requests a copy of the list.
285 (5) (a) A county auditor shall by no later than 30 days from the day on which the last
286 publication of the information required by Subsection (3)(a) is made:
287 (i) determine the costs of compiling and publishing the list; and
288 (ii) charge each taxing entity included on the list an amount calculated by dividing the
289 amount determined under Subsection (5)(a) by the number of taxing entities on the list.
290 (b) A taxing entity shall pay the county auditor the amount charged under Subsection
291 (5)(a).
292 (6) The publication of the list under this section does not remove or change the
293 requirements for advertisements by a taxing entity under Section 59-2-918 or 59-2-919.
294 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
295 the commission may make rules:
296 (a) relating to the publication of a consolidated advertisement which includes the
297 information described in Subsection (2) for a taxing entity that overlaps two or more counties;
298 (b) relating to the payment required in Subsection (5)(b); and
299 (c) to oversee the administration of this section and provide for uniform
300 implementation.
301 Section 4. **Effective date.**
302 This bill takes effect on January 1, 2010.