

Representative Douglas V. Sagers proposes the following substitute bill:

TAXATION OF PROPERTY AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill amends provisions related to the taxation of property.

Highlighted Provisions:

This bill:

- ▶ defines "diminished productive value";
- ▶ requires a county assessor to consider diminished productive value in determining the fair market value of property;
- ▶ requires a county assessor, under certain circumstances, to consider whether property has been used for hazardous waste storage or radioactive waste storage in determining fair market value;
- ▶ provides that provisions requiring a county assessor to consider certain factors in determining the fair market value of property apply to the privilege tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:



26 AMENDS:

27 **59-4-101**, as last amended by Laws of Utah 2006, Chapter 36

28 ENACTS:

29 **59-2-301.6**, Utah Code Annotated 1953

30 **59-2-301.7**, Utah Code Annotated 1953

31

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

33 Section 1. Section **59-2-301.6** is enacted to read:

34 **59-2-301.6. Definitions -- Assessment of property having a diminished productive**
35 **value.**

36 (1) As used in this section, "diminished productive value" means that property has no,
37 or a significantly reduced, ability to generate income as a result of:

38 (a) a parcel size requirement established under a land use ordinance or zoning map
39 adopted by a:

40 (i) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use Ordinances;

41 or

42 (ii) a county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances;

43 (b) the property being severed from other property in a manner that permanently
44 restricts the ability to generate income from the property; or

45 (c) a particular right of use being severed from the property in a manner that
46 permanently restricts the ability to generate income from the property.

47 (2) In assessing the fair market value of property, a county assessor shall consider as
48 part of the determination of fair market value whether property has diminished productive
49 value.

50 (3) This section does not prohibit a county assessor from including as part of a
51 determination of the fair market value of property any other factor affecting the fair market
52 value of the property.

53 Section 2. Section **59-2-301.7** is enacted to read:

54 **59-2-301.7. Definitions -- Assessment of property used for radioactive or**
55 **hazardous waste storage.**

56 (1) As used in this section:

- 57 (a) "Hazardous waste" is as defined in Section 19-6-102.
58 (b) (i) "Radioactive waste" means:
59 (A) low-level radioactive waste as defined in 42 U.S.C. Sec. 10101; or
60 (B) high-level radioactive waste as defined in 42 U.S.C. Sec. 10101.
61 (ii) "Radioactive waste" does not include naturally occurring radioactive materials.
62 (2) Subject to Subsection (3), in assessing the fair market value of property, a county
63 assessor shall consider, as part of the determination of fair market value, whether property that
64 is not currently used for the storage of hazardous waste or radioactive waste has been used in
65 the past for the storage of hazardous waste or radioactive waste in a manner that affects:
66 (a) the functionality of the property;
67 (b) the ability to use the property; or
68 (c) property rights.
69 (3) Subsection (2) applies to the extent a county assessor knows, or reasonably should
70 have known, that property has been used in the past for the storage of hazardous waste or
71 radioactive waste.
72 (4) This section does not prohibit a county assessor from including as part of a
73 determination of the fair market value of property any other factor affecting the fair market
74 value of the property.

75 Section 3. Section **59-4-101** is amended to read:

76 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

- 77 (1) (a) Except as provided in Subsections (1)(b) and (c), a tax is imposed on the
78 possession or other beneficial use enjoyed by any person of any real or personal property which
79 for any reason is exempt from taxation, if that property is used in connection with a business
80 conducted for profit.
81 (b) Any interest remaining in the state in state lands after subtracting amounts paid or
82 due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a
83 contract of sale is subject to taxation under this chapter regardless of whether the property is
84 used in connection with a business conducted for profit.
85 (c) The tax imposed under Subsection (1)(a) does not apply to property exempt from
86 taxation under Section 59-2-1114.
87 (2) The tax imposed under this chapter is the same amount that the ad valorem property

88 tax would be if the possessor or user were the owner of the property. The amount of any
89 payments which are made in lieu of taxes is credited against the tax imposed on the beneficial
90 use of property owned by the federal government.

91 (3) A tax is not imposed under this chapter on the following:

92 (a) the use of property which is a concession in, or relative to, the use of a public
93 airport, park, fairground, or similar property which is available as a matter of right to the use of
94 the general public;

95 (b) the use or possession of property by a religious, educational, or charitable
96 organization;

97 (c) the use or possession of property if the revenue generated by the possessor or user
98 of the property through its possession or use of the property inures only to the benefit of a
99 religious, educational, or charitable organization and not to the benefit of any other person;

100 (d) the possession or other beneficial use of public land occupied under the terms of an
101 agricultural lease or permit issued by the United States or this state;

102 (e) the use or possession of any lease, permit, or easement unless the lease, permit, or
103 easement entitles the lessee or permittee to exclusive possession of the premises to which the
104 lease, permit, or easement relates. Every lessee, permittee, or other holder of a right to remove
105 or extract the mineral covered by the holder's lease, right, permit, or easement except from
106 brines of the Great Salt Lake, is considered to be in possession of the premises,
107 notwithstanding the fact that other parties may have a similar right to remove or extract another
108 mineral from the same lands or estates;

109 (f) the use or possession of property by a public agency, as defined in Section
110 [11-13-103](#), to the extent that the ownership interest of the public agency in that property is
111 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

112 (g) the possession or beneficial use of public property as a tollway by a private entity
113 through a tollway development agreement as defined in Section [72-6-202](#).

114 (4) A tax imposed under this chapter is assessed to the possessors or users of the
115 property on the same forms, and collected and distributed at the same time and in the same
116 manner, as taxes assessed owners, possessors, or other claimants of property which is subject to
117 ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt
118 property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

119 (5) Sections [59-2-301.1](#) through [59-2-301.7](#) apply for purposes of assessing a tax under
120 this chapter.

121 Section 4. **Effective date.**

122 This bill takes effect on January 1, 2015.