

1 **TRUTH IN TAXATION AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: Robert M. Spendlove

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies public hearing requirements in the property tax code.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ places limitations on the other items a taxing entity can place on an agenda for a
- 13 meeting during which the taxing entity will hold a public hearing to discuss a
- 14 proposed tax rate increase;
- 15 ▶ requires a public meeting addressing the general business of the taxing entity that
- 16 occurs on the same date as a public hearing to discuss a proposed tax rate increase
- 17 to conclude before the public hearing on the proposed tax rate increase begins;
- 18 ▶ prohibits unreasonable restriction on the number of individuals who offer public
- 19 comment; and
- 20 ▶ prohibits a taxing entity from holding a public hearing to discuss a proposed tax rate
- 21 increase on the same date as another public hearing, other than a taxing entity's
- 22 budget hearing, a local district's or special service district's fee hearing, or a city's or
- 23 town's enterprise fund hearing.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-2-919**, as last amended by Laws of Utah 2018, Chapters 68 and 415

31

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

33 Section 1. Section **59-2-919** is amended to read:

34 **59-2-919. Notice and public hearing requirements for certain tax increases --**

35 **Exceptions.**

36 (1) As used in this section:

37 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue
38 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

39 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including
40 revenue from:

41 (i) eligible new growth as defined in Section **59-2-924**; or

42 (ii) personal property that is:

43 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and

44 (B) semiconductor manufacturing equipment.

45 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year
46 that begins on January 1 and ends on December 31.

47 (d) "County executive calendar year taxing entity" means a calendar year taxing entity
48 that operates under the county executive-council form of government described in Section
49 **17-52a-203**.

50 (e) "Current calendar year" means the calendar year immediately preceding the
51 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the
52 calendar year taxing entity's certified tax rate.

53 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that
54 begins on July 1 and ends on June 30.

55 (g) "Last year's property tax budgeted revenue" does not include revenue received by a
56 taxing entity from a debt service levy voted on by the public.

57 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax

58 rate unless the taxing entity meets:

59 (a) the requirements of this section that apply to the taxing entity; and

60 (b) all other requirements as may be required by law.

61 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar
62 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax
63 rate if the calendar year taxing entity:

64 (i) 14 or more days before the date of the regular general election or municipal general
65 election held in the current calendar year, states at a public meeting:

66 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the
67 calendar year taxing entity's certified tax rate;

68 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would
69 be generated by the proposed increase in the certified tax rate; and

70 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity
71 based on the proposed increase described in Subsection (3)(a)(i)(B);

72 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in
73 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a
74 separate item on the meeting agenda that notifies the public that the calendar year taxing entity
75 intends to make the statement described in Subsection (3)(a)(i);

76 (iii) meets the advertisement requirements of Subsections (6) and (7) before the
77 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

78 (iv) provides notice by mail:

79 (A) seven or more days before the regular general election or municipal general
80 election held in the current calendar year; and

81 (B) as provided in Subsection (3)(c); and

82 (v) conducts a public hearing that is held:

83 (A) in accordance with Subsections (8) and (9); and

84 (B) in conjunction with the public hearing required by Section [17-36-13](#) or [17B-1-610](#).

85 (b) (i) For a county executive calendar year taxing entity, the statement described in

86 Subsection (3)(a)(i) shall be made by the:

87 (A) county council;

88 (B) county executive; or

89 (C) both the county council and county executive.

90 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
91 county council states a dollar amount of additional ad valorem tax revenue that is greater than
92 the amount of additional ad valorem tax revenue previously stated by the county executive in
93 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

94 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the
95 county executive calendar year taxing entity conducts the public hearing under Subsection
96 (3)(a)(v); and

97 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the
98 county executive calendar year taxing entity conducts the public hearing required by
99 Subsection (3)(a)(v).

100 (c) The notice described in Subsection (3)(a)(iv):

101 (i) shall be mailed to each owner of property:

102 (A) within the calendar year taxing entity; and

103 (B) listed on the assessment roll;

104 (ii) shall be printed on a separate form that:

105 (A) is developed by the commission;

106 (B) states at the top of the form, in bold upper-case type no smaller than 18 point

107 "NOTICE OF PROPOSED TAX INCREASE"; and

108 (C) may be mailed with the notice required by Section [59-2-1317](#);

109 (iii) shall contain for each property described in Subsection (3)(c)(i):

110 (A) the value of the property for the current calendar year;

111 (B) the tax on the property for the current calendar year; and

112 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year

113 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax

114 rate, the estimated tax on the property;

115 (iv) shall contain the following statement:

116 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar
117 year]. This notice contains estimates of the tax on your property and the proposed tax increase
118 on your property as a result of this tax increase. These estimates are calculated on the basis of
119 [insert previous applicable calendar year] data. The actual tax on your property and proposed
120 tax increase on your property may vary from this estimate.";

121 (v) shall state the date, time, and place of the public hearing described in Subsection
122 (3)(a)(v); and

123 (vi) may contain other property tax information approved by the commission.

124 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall
125 calculate the estimated tax on property on the basis of:

126 (i) data for the current calendar year; and

127 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
128 section.

129 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate
130 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

131 (a) provides notice by meeting the advertisement requirements of Subsections (6) and
132 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year
133 taxing entity's annual budget is adopted; and

134 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the
135 fiscal year taxing entity's annual budget is adopted.

136 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements
137 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with
138 the requirements of this section.

139 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or
140 (4) if:

141 (i) Section [53F-8-301](#) allows the taxing entity to levy a tax rate that exceeds that

142 certified tax rate without having to comply with the notice provisions of this section; or

143 (ii) the taxing entity:

144 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;

145 and

146 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
147 revenues.

148 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this
149 section shall be published:

150 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of
151 general circulation in the taxing entity;

152 (ii) electronically in accordance with Section 45-1-101; and

153 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

154 (b) The advertisement described in Subsection (6)(a)(i) shall:

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

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

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

158 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that
159 portion of the newspaper where legal notices and classified advertisements appear.

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

161 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a
162 newspaper that is published at least one day per week; and

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

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

165 (B) not be of limited subject matter.

166 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

167 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks
168 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);

169 and

170 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
171 advertisement, which shall be seven or more days after the day the first advertisement is
172 published, for the purpose of hearing comments regarding any proposed increase and to explain
173 the reasons for the proposed increase.

174 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

175 (A) be published two weeks before a taxing entity conducts a public hearing described
176 in Subsection (3)(a)(v) or (4)(b); and

177 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
178 advertisement, which shall be seven or more days after the day the first advertisement is
179 published, for the purpose of hearing comments regarding any proposed increase and to explain
180 the reasons for the proposed increase.

181 (f) If a fiscal year taxing entity's public hearing information is published by the county
182 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the
183 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
184 the advertisement once during the week before the fiscal year taxing entity conducts a public
185 hearing at which the taxing entity's annual budget is discussed.

186 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an
187 advertisement shall be substantially as follows:

188 "NOTICE OF PROPOSED TAX INCREASE

189 (NAME OF TAXING ENTITY)

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

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

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

197 ● If the proposed budget is approved, (name of the taxing entity) would increase

198 its property tax budgeted revenue by ___% above last year's property tax budgeted revenue
199 excluding eligible new growth.

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

201 PUBLIC HEARING

202 Date/Time: (date) (time)

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

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

206 (7) The commission:

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

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

211 (i) the use of a weekly newspaper:

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

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

215 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer
216 if:

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

218 (B) the direct notice is different and separate from that provided for in Section

219 59-2-919.1; and

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

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

225 (B) A county that receives notice from a fiscal year taxing entity under Subsection

226 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place
227 of the public hearing described in Subsection (8)(a)(i)(A).

228 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar
229 year, notify the county legislative body in which the calendar year taxing entity is located of the
230 date, time, and place of the first public hearing at which the calendar year taxing entity's annual
231 budget will be discussed.

232 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

233 (A) open to the public[-]; and

234 (B) held at a meeting of the taxing entity with no items on the agenda other than
235 discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing
236 entity's certified tax rate, the taxing entity's budget, a local district's or special service district's
237 fee implementation or increase, or a combination of these items.

238 (ii) The governing body of a taxing entity conducting a public hearing described in
239 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an
240 opportunity to present oral testimony:

241 (A) within reasonable time limits; and

242 (B) without unreasonable restriction on the number of individuals allowed to make
243 public comment.

244 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a
245 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
246 of another overlapping taxing entity in the same county.

247 (ii) The taxing entities in which the power to set tax levies is vested in the same
248 governing board or authority may consolidate the public hearings described in Subsection
249 (3)(a)(v) or (4)(b) into one public hearing.

250 (d) A county legislative body shall resolve any conflict in public hearing dates and
251 times after consultation with each affected taxing entity.

252 (e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or
253 (4)(b) beginning at or after 6 p.m.

254 (ii) If a taxing entity holds a public meeting for the purpose of addressing general
255 business of the taxing entity on the same date as a public hearing described in Subsection
256 (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before
257 the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

258 (f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the
259 public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public
260 hearing of the taxing entity.

261 (ii) A taxing entity may hold the following hearings on the same date as a public
262 hearing described in Subsection (3)(a)(v) or (4)(b):

263 (A) a budget hearing;

264 (B) if the taxing entity is a local district or a special service district, a fee hearing
265 described in Section [17B-1-643](#);

266 (C) if the taxing entity is a town, an enterprise fund hearing described in Section
267 [10-5-107.5](#); or

268 (D) if the taxing entity is a city, an enterprise fund hearing described in Section
269 [10-6-135.5](#).

270 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad
271 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing
272 entity shall announce at that public hearing the scheduled time and place of the next public
273 meeting at which the taxing entity will consider budgeting the additional ad valorem tax
274 revenue.

275 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount
276 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem
277 tax revenue stated at a public meeting under Subsection (3)(a)(i).

278 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's
279 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed
280 annual budget.