

VOTED LEEWAY AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act modifies the State System of Public Education Code and the Property Tax Act to allow school districts to budget an increased amount of revenue derived from a voted leeway, exclusive of revenue from new growth, without having to comply with certain advertisement requirements. This act modifies the certified tax rate for voted leeways imposed by school districts. This act makes technical amendments.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-17a-133, as last amended by Chapter 279, Laws of Utah 2002

53A-17a-134, as last amended by Chapters 335 and 336, Laws of Utah 2001

59-2-924, as last amended by Chapters 133, 195 and 258, Laws of Utah 2001

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

Section 1. Section **53A-17a-133** is amended to read:

53A-17a-133. State-supported voted leeway program authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) An election to consider adoption or modification of a voted leeway program is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(2) (a) (i) To establish a voted leeway program, a majority of the electors of a district voting at an election in the manner set forth in Section 53A-16-110 must vote in favor of a special tax.

(ii) The tax may not exceed .002 per dollar of taxable value.

(b) The district may maintain a school program which exceeds the cost of the program referred to in Section 53A-17a-145 with this voted leeway.



(c) In order to receive state support as provided in Subsection (3) the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

~~[(d) The additional program is the state-supported voted leeway program of the district.]~~

(3) (a) Under the voted leeway program, the state shall contribute an amount sufficient to guarantee \$17.14 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (3)(a) shall apply to the board-approved leeway authorized in Section 53A-17a-134, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2003, the \$17.14 guarantee under Subsections (3)(a) and (b) shall be indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .008544 times the value of the prior year's weighted pupil unit.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each succeeding year until the guarantee is equal to .010544 times the value of the prior year's weighted pupil unit.

~~[(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.]~~

~~[(ii) Subsection (3)(d)(i) applies for a period of two years following any such change in the certified tax rate.]~~

(4) (a) An election to modify an existing voted leeway program is not a reconsideration of the existing program unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue an existing program.

(c) If adoption of a leeway program is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the program prior to a subsequent increase in other levies that would increase the

total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue an existing voted leeway program previously authorized by the voters.

(5) Notwithstanding Section 59-2-918, a school district may budget an increased amount of ad valorem tax revenue derived from a voted leeway imposed under this section, exclusive of revenue from new growth, without having to comply with the advertisement requirements of Section 59-2-918.

Section 2. Section **53A-17a-134** is amended to read:

53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.

(1) Each local school board may levy a tax rate of up to .0004 per dollar of taxable value to maintain a school program above the cost of the basic school program as follows:

(a) a local school board shall use the monies generated by the tax for class size reduction within the school district;

(b) if a local school board determines that the average class size in the school district is not excessive, it may use the monies for other school purposes but only if the board has declared the use for other school purposes in a public meeting prior to levying the tax rate; and

(c) a district may not use the monies for other school purposes under Subsection (1)(b) until it has certified in writing that its class size needs are already being met and has identified the other school purposes for which the monies will be used to the State Board of Education and the state board has approved their use for other school purposes.

(2) (a) The state shall contribute an amount sufficient to guarantee \$17.14 per weighted pupil unit for each .0001 per dollar of taxable value.

(b) The guarantee shall increase in the same manner as provided for the voted leeway guarantee in Subsections 53A-17a-133(3)(c)(i) and (ii).

(c) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under Subsections (2)(a) and (2)(b) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (3)(c)(i) applies for a period of two years following any such change in the certified tax rate.

(3) The levy authorized under this section is not in addition to the maximum rate of .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax rate under that section.

(4) As an exception to Section 53A-17a-133, the board-authorized levy does not require voter approval, but the board may require voter approval if requested by a majority of the board.

(5) An election to consider disapproval of the board-authorized levy is required, if within 60 days after the levy is established by the board, referendum petitions signed by the number of legal voters required in Section 20A-7-301, who reside within the school district, are filed with the school district.

(6) (a) A local school board shall establish its board-approved levy by April 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an election is required under this section, the levy applies to the fiscal year beginning July 1 of the next calendar year.

(b) The approval and disapproval votes authorized in Subsections (4) and (5) shall occur at a general election in even-numbered years, except that a vote required under this section in odd-numbered years shall occur at a special election held on a day in odd-numbered years that corresponds to the general election date. The school district shall pay for the cost of a special election.

(7) (a) Modification or termination of a voter-approved leeway rate authorized under this section is governed by Section 53A-17a-133.

(b) A board-authorized leeway rate may be modified or terminated by a majority vote of the board subject to disapproval procedures specified in this section.

(8) A board levy election does not require publication of a voter information pamphlet.

Section 3. Section **59-2-924** is amended to read:

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative budget.

(1) (a) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(i) a statement containing the aggregate valuation of all taxable property in each taxing

entity; and

(ii) a statement containing the taxable value of any additional personal property estimated by the county assessor to be subject to taxation in the current year.

(b) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(i) the statements described in Subsections (1)(a)(i) and (ii);

(ii) an estimate of the revenue from personal property;

(iii) the certified tax rate; and

(iv) all forms necessary to submit a tax levy request.

(2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were collected by that taxing entity for the prior year.

(ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not include:

(A) collections from redemptions;

(B) interest; and

(C) penalties.

(iii) Except as provided in Subsection (2)(a)(iv), the certified tax rate shall be calculated by dividing the ad valorem property tax revenues collected for the prior year by the taxing entity by the taxable value established in accordance with Section 59-2-913.

(iv) The certified tax rates for the taxing entities and levies described in this Subsection (2)(a)(iv) shall be calculated as follows:

(A) except as provided in Subsection (2)(a)(iv)(B), for new taxing entities the certified tax rate is zero;

(B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(I) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22);

(C) for debt service voted on by the public, the certified tax rate shall be the actual levy

imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(I) school leeways provided for under Sections 11-2-7, 53A-16-110, ~~[53A-17a-125,]~~ 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

(II) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-906.3~~[-]; and~~

(D) the certified tax rate for a voted leeway imposed under Section 53A-17a-133 shall be the actual levy imposed by the local school board, provided the levy imposed does not exceed the levy authorized by the electors.

(v) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall be established at that rate which is sufficient to generate only the revenue required to satisfy one or more eligible judgments, as defined in Section 59-2-102.

(B) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use the taxable value of property on the assessment roll.

(ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the assessment roll does not include new growth as defined in Subsection (2)(b)(iii).

(iii) "New growth" means:

(A) the difference between the increase in taxable value of the taxing entity from the previous calendar year to the current year; minus

(B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

(iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

(A) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or

(B) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:

(I) the Legislature;

(II) a court;

(III) the commission in an administrative rule; or

(IV) the commission in an administrative order.

(c) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(A) decreased on a one-time basis by the amount of the estimated sales tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(B) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of the decrease in the certified tax rate under Subsection (2)(d)(i)(A).

(ii) The commission shall determine estimates of sales tax distributions for purposes of Subsection (2)(d)(i).

(e) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales tax imposed under Section 59-12-402.

(f) For the calendar year beginning on January 1, 1999, and ending on December 31, 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the adjustment in revenues from uniform fees on tangible personal property under Section 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

(g) For purposes of Subsections (2)(h) through (j):

(i) "1998 actual collections" means the amount of revenues a taxing entity actually collected for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:

(A) motor vehicles required to be registered with the state that weigh 12,000 pounds or less; and

(B) state-assessed commercial vehicles required to be registered with the state that

weigh 12,000 pounds or less.

(ii) "1999 actual collections" means the amount of revenues a taxing entity actually collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.

(h) For the calendar year beginning on January 1, 2000, the commission shall make the following adjustments:

(i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were greater than the sum of:

(A) the taxing entity's 1999 actual collections; and

(B) any adjustments the commission made under Subsection (2)(f);

(ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual collections were less than the sum of:

(A) the taxing entity's 1999 actual collections; and

(B) any adjustments the commission made under Subsection (2)(f); and

(iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were less than the taxing entity's 1999 actual collections.

(i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the taxing entity's 1998 actual collections; and

(B) the sum of:

(I) the taxing entity's 1999 actual collections; and

(II) any adjustments the commission made under Subsection (2)(f).

(ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the sum of:

(I) the taxing entity's 1999 actual collections; and

(II) any adjustments the commission made under Subsection (2)(f); and

(B) the taxing entity's 1998 actual collections.

(iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection (2)(f).

(j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of Subsections (2)(f) through (i), the commission may make rules establishing the method for determining a taxing entity's 1998 actual collections and 1999 actual collections.

(k) (i) (A) For fiscal year 2000, the certified tax rate of each county required under Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the unincorporated area of the county shall be decreased by the amount necessary to reduce revenues in that fiscal year by an amount equal to the difference between the amount the county budgeted in its 2000 fiscal year budget for advanced life support and paramedic services countywide and the amount the county spent during fiscal year 2000 for those services, excluding amounts spent from a municipal services fund for those services.

(B) For fiscal year 2001, the certified tax rate of each county to which Subsection (2)(k)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal year by the amount that the county spent during fiscal year 2000 for advanced life support and paramedic services countywide, excluding amounts spent from a municipal services fund for those services.

(ii) (A) A city or town located within a county of the first class to which Subsection (2)(k)(i) applies may increase its certified tax rate by the amount necessary to generate within the city or town the same amount of revenues as the county would collect from that city or town if the decrease under Subsection (2)(k)(i) did not occur.

(B) An increase under Subsection (2)(k)(ii)(A), whether occurring in a single fiscal year or spread over multiple fiscal years, is not subject to the notice and hearing requirements of Sections 59-2-918 and 59-2-919.

(l) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to provide detective investigative services to the unincorporated area of the county shall be decreased:

(A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year by at least \$4,400,000; and

(B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year by an amount equal to the difference between \$9,258,412 and the amount of the reduction in revenues under Subsection (2)(l)(i)(A).

(ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the city or town the same amount of revenue as the county would have collected during county fiscal year 2001 from within the city or town except for Subsection (2)(l)(i)(A).

(II) Beginning with municipal fiscal year 2003, a city or town located within a county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the city or town the same amount of revenue as the county would have collected during county fiscal year 2002 from within the city or town except for Subsection (2)(l)(i)(B).

(B) (I) Except as provided in Subsection (2)(l)(ii)(B)(II), an increase in the city or town's certified tax rate under Subsection (2)(l)(ii)(A), whether occurring in a single fiscal year or spread over multiple fiscal years, is subject to the notice and hearing requirements of Sections 59-2-918 and 59-2-919.

(II) For an increase under this Subsection (2)(l)(ii) that generates revenue that does not exceed the same amount of revenue as the county would have collected except for Subsection (2)(l)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

(aa) publishes a notice that meets the size, type, placement, and frequency requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed by the county to one imposed by the city or town, and explains how the revenues from the tax increase will be used; and

(bb) holds a public hearing on the tax shift that may be held in conjunction with the city or town's regular budget hearing.

(m) (i) This Subsection (2)(m) applies to each county that:

(A) establishes a countywide special service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, to provide jail service, as provided in Subsection 17A-2-1304(1)(a)(x); and

(B) levies a property tax on behalf of the special service district under Section

17A-2-1322.

(ii) (A) The certified tax rate of each county to which this Subsection (2)(m) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(B) Each decrease under Subsection (2)(m)(ii)(A) shall occur contemporaneously with the levy on behalf of the special service district under Section 17A-2-1322.

(3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:

(i) its intent to exceed the certified tax rate; and

(ii) the amount by which it proposes to exceed the certified tax rate.

(c) The county auditor shall notify all property owners of any intent to exceed the certified tax rate in accordance with Subsection 59-2-919(2).

(4) (a) The taxable value for the base year under Subsection 17B-4-102(4) shall be reduced for any year to the extent necessary to provide a redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17B-4-1003 or 17B-4-1004.

(b) The taxable value of the base year under Subsection [~~17B-4-101~~] 17B-4-102(4) shall be increased in any year to the extent necessary to provide a redevelopment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the taxable value for the base year under Subsection [~~17B-4-101~~] 17B-4-102(4) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or

338 (2)(d)(i); and
339 (ii) The certified tax rate of a city, school district, or special district increases
340 independent of the adjustment to the taxable value of the base year.
341 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or
342 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a
343 redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act,
344 for the payment of bonds or other contract indebtedness, but not for administrative costs, may
345 not be less than that amount would have been without a decrease in the certified tax rate under
346 Subsection (2)(c) or (2)(d)(i).

Legislative Review Note
as of 1-30-03 11:01 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

This bill exempts Local School Districts from having to go through a truth in taxation hearing to levy a tax rate for voted leeways. Assuming that the tax levies that are currently held harmless for the voted leeway program become the amount levied, the state savings to the guarantee program could be as much as \$1,779,700 in uniform school funds. Local tax revenue could increase as much as \$3,241,400. These amounts are dependent upon actions of the local school boards of school districts who qualify for state guaranteed funds under the voted leeway program.

Individual and Business Impact

There could be an increase in property taxes to individuals and business.

Office of the Legislative Fiscal Analyst