

PROPERTY TAX - NOTICE AND HEARING

AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Property Tax Act to allow a taxing entity under certain circumstances to make an adjustment to the taxing entity's certified tax rate and ad valorem tax revenue budget without complying with property tax notice and hearing requirements.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a taxing entity may budget an increased amount of ad valorem tax revenue and levy a tax rate in excess of the taxing entity's certified tax rate, without complying with property tax notice and hearing requirements, if the budgeted amount and levy do not exceed a certain amount;
- modifies the property tax notice requirements; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2007.

Utah Code Sections Affected:



AMENDS:

59-2-918, as last amended by Chapter 11, Laws of Utah 2005, First Special Session

59-2-919, as last amended by Chapter 11, Laws of Utah 2005, First Special Session

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

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

**59-2-918. Advertisement of proposed tax increase -- Notice -- Contents --
Exceptions to notice and hearing requirements.**

(1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) and (7), a taxing entity may not budget an increased amount of ad valorem tax revenue exclusive of revenue from new growth as defined in Subsection 59-2-924(2) unless it advertises its intention to do so at the same time that it advertises its intention to fix its budget for the forthcoming fiscal year.

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

(i) the taxing entity:

(A) collected less than \$15,000 in ad valorem tax revenues for the previous fiscal year;

or

(B) is expressly exempted by law from complying with the requirements of this section; or

(ii) the increased amount of ad valorem tax revenue results from a tax rate increase that is exempted under Subsection 59-2-919(1)(a)(ii)(B) from the advertisement and hearing requirements of Section 59-2-919.

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

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

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

"NOTICE OF PROPOSED TAX INCREASE

The (name of the taxing entity) is proposing to increase its property tax revenue. As a result of the proposed increase, the tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence will be \$_____, and the tax on a business having the same value as the average value of a residence in the taxing entity will be_____. Without the proposed increase, the tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would be \$_____, and the tax on a business having the same value as the average value of a residence in the taxing entity would be_____.

This would be an increase of _____%, which is \$_____ per year (\$_____ per month) on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence or \$_____ per year on a business having the same value as the average value of a residence in the taxing entity. With new growth, this property tax increase, and other factors, (name of taxing entity) will increase its property tax revenue from \$_____ [collected] budgeted last year to \$_____ [collected] budgeted this year which is a revenue increase of _____%.

All concerned citizens are invited to a public hearing on the tax increase to be held on (date and time) at (meeting place)."

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

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

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

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

(7) (a) As used in this Subsection (7):

(i) "Budget amount for the prior year" means the amount of ad valorem property tax

revenue budgeted by a taxing entity:

(A) for a taxing entity operating on a January 1 through December 31 fiscal year, for the one-year period beginning on the January 1 immediately preceding the fiscal year for which the taxing entity is budgeting an increased amount of ad valorem property tax revenue in accordance with this Subsection (7); or

(B) for a taxing entity operating on a July 1 through June 30 fiscal year, for the one-year period beginning on the July 1 immediately preceding the fiscal year for which the taxing entity is budgeting an increased amount of ad valorem property tax revenue in accordance with this Subsection (7).

(ii) "Consumer price index" is as calculated under Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(iii) "Consumer price index change for the prior year" means the percentage difference between the consumer price index for:

(A) the August 31 of the calendar year that is two calendar years preceding the calendar year during which the first day of the taxing entity's fiscal year occurs; and

(B) the August 31 of the calendar year that is one calendar year preceding the calendar year during which the first day of the taxing entity's fiscal year occurs.

(iv) (A) Subject to Subsection (7)(a)(iv)(B), "consumer price index increase" means the difference between:

(I) the budget amount for the prior year multiplied by the consumer price index change for the prior year; and

(II) the budget amount for the prior year; and

(B) if the percentage difference under Subsection (7)(a)(iv) is zero or a negative percentage, the consumer price index increase for the prior year is zero.

(b) A taxing entity may budget an increased amount of ad valorem tax revenue, in addition to revenue from new growth as defined in Subsection 59-2-924(2), without having to comply with the advertisement or hearing requirements of this section, if the amount of that increase does not exceed the lesser of:

(i) 50% of the consumer price index increase; or

(ii) 2% of the budget amount for the prior year.

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

59-2-919. Resolution proposing tax increases -- Notice -- Exceptions -- Contents of notice of proposed tax increase -- Personal mailed notice in addition to advertisement -- Contents of personal mailed notice -- Hearing -- Dates.

[A] Except as provided in Subsection (1)(a)(ii), a tax rate in excess of the certified tax rate may not be levied until a resolution has been approved by the taxing entity in accordance with the following procedure:

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

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

(A) the taxing entity:

(I) collected less than \$15,000 in ad valorem tax revenues for the previous fiscal year;

or

(II) is expressly exempted by law from complying with the requirements of this section; [or]

(B) (I) 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;

(II) 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;

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

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

(Aa) adopts a resolution certifying that 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 that 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

(Bb) sends a copy of the resolution to the commission[-]; or

(C) a tax rate that exceeds the certified tax rate is levied in accordance with Subsection

(9).

(iii) The exception under Subsection (1)(a)(ii)(B) from the advertisement and hearing requirements of this section 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.

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

(i) be run once each week for the two weeks preceding the adoption of the final budget; 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.

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

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

"NOTICE OF PROPOSED TAX INCREASE

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

result of the proposed increase, the tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence will be \$_____, and the tax on a business having the same value as the average value of a residence in the taxing entity will be \$_____. Without the proposed increase the tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would be \$_____, and the tax on a business having the same value as the average value of a residence in the taxing entity would be \$_____.

The (insert year) proposed tax rate is _____. Without the proposed increase, the rate would be _____. This would be an increase of _____%, which is \$_____ per year (\$_____ per month) on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence or \$_____ per year on a business having the same value as the average value of a residence in the taxing entity. With new growth, this property tax increase, and other factors, (name of taxing entity) will increase its property tax revenue from \$_____ ~~[collected]~~ budgeted last year to \$_____ ~~[collected]~~ budgeted this year which is a revenue increase of _____%.

All concerned citizens are invited to a public hearing on the tax increase to be held on (date and time) at (meeting place)."

(3) The commission:

(a) shall adopt rules governing the joint use of one advertisement under this section or Section 59-2-918 by two or more taxing entities; and

(b) may, upon petition by any taxing entity, authorize either:

(i) the use of weekly newspapers in counties having both daily and weekly newspapers where the weekly newspaper would provide equal or greater notice to the taxpayer; or

(ii) the use of a commission-approved direct notice to each taxpayer if the:

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

(B) direct notice is different and separate from that provided for in Subsection (4).

(4) (a) In addition to providing the notice required by Subsections (1) and (2), the county auditor, on or before July 22 of each year, shall notify, by mail, each owner of real estate as defined in Section 59-2-102 who is listed on the assessment roll.

(b) The notice described in Subsection (4)(a) shall:

(i) be sent to all owners of real property by mail not less than ten days before the day

on which:

(A) the county board of equalization meets; and

(B) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(ii) be printed on a form that is:

(A) approved by the commission; and

(B) uniform in content in all counties in the state; and

(iii) contain for each property:

(A) the value of the property;

(B) the date the county board of equalization will meet to hear complaints on the valuation;

(C) itemized tax information for all taxing entities, including a separate statement for the minimum school levy under Section 53A-17a-135 stating:

(I) the dollar amount the taxpayer would have paid based on last year's rate; and

(II) the amount of the taxpayer's liability under the current rate;

(D) the tax impact on the property;

(E) the time and place of the required public hearing for each entity;

(F) property tax information pertaining to:

(I) taxpayer relief;

(II) options for payment of taxes; and

(III) collection procedures;

(G) information specifically authorized to be included on the notice under Title 59, Chapter 2, Property Tax Act; and

(H) other property tax information approved by the commission.

(5) (a) The taxing entity, after holding a hearing as provided in this section, may adopt a resolution levying a tax rate in excess of the certified tax rate.

(b) If a resolution adopting a tax rate is not adopted on the day of the public hearing, the scheduled time and place for consideration and adoption of the resolution shall be announced at the public hearing.

(c) If a resolution adopting a tax rate is to be considered at a day and time that is more than two weeks after the public hearing described in Subsection (4)(b)(iii)(E), a taxing entity,

other than a taxing entity described in Subsection (1)(a)(ii), shall advertise the date of the proposed adoption of the resolution in the same manner as provided under Subsections (1) and (2).

(6) (a) All hearings described in this section shall be open to the public.

(b) The governing body of a taxing entity conducting a hearing shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(7) (a) Each taxing entity shall notify the county legislative body by March 1 of each year of the date, time, and place a public hearing is held by the taxing entity pursuant to this section.

(b) A taxing entity may not schedule a hearing described in this section at the same time as another overlapping taxing entity in the same county, but all taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the required hearings into one hearing.

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

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

(9) (a) As used in this Subsection (9):

(i) "Budget amount for the prior year" means the amount of ad valorem property tax revenue budgeted by a taxing entity:

(A) for a taxing entity operating on a January 1 through December 31 fiscal year, for the one-year period beginning on the January 1 immediately preceding the fiscal year for which the taxing entity is budgeting an increased amount of ad valorem property tax revenue in accordance with this Subsection (9); or

(B) for a taxing entity operating on a July 1 through June 30 fiscal year, for the one-year period beginning on the July 1 immediately preceding the fiscal year for which the taxing entity is budgeting an increased amount of ad valorem property tax revenue in accordance with this Subsection (9).

(ii) "Consumer price index" is as calculated under Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(iii) "Consumer price index change for the prior year" means the percentage difference between the consumer price index for:

(A) the August 31 of the calendar year that is two calendar years preceding the calendar year during which the first day of the taxing entity's fiscal year occurs; and

(B) the August 31 of the calendar year that is one calendar year preceding the calendar year during which the first day of the taxing entity's fiscal year occurs.

(iv) (A) Subject to Subsection (9)(a)(iv)(B), "consumer price index increase" means the difference between:

(I) the budget amount for the prior year multiplied by the consumer price index for the prior year; and

(II) the budget amount for the prior year; and

(B) if the percentage difference under Subsection (9)(a)(iv) is zero or a negative percentage, the consumer price index increase for the prior year is zero.

(b) A taxing entity may levy a tax rate in excess of the certified tax rate without having to comply with the advertisement or hearing requirements of this section if the levy exceeds the certified tax rate as the result of the taxing entity budgeting an increased amount of ad valorem property tax revenue by an amount that does not exceed the lesser of:

(i) 50% of the consumer price index increase; or

(ii) 2% of the budget amount for the prior year.

Section 3. Effective date.

This bill takes effect on January 1, 2007.

Legislative Review Note

as of 1-16-06 10:04 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0151

Property Tax - Notice and Hearing Amendments

20-Jan-06

8:07 AM

State Impact

Passage of this bill could increase local revenues over time.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst