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H.B. 54
2nd Sub. (Gray)

Representative Wayne A. Harper proposes the following substitute bill:

PROPERTY TAX ASSESSMENT REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends provisions in the Property Tax Act relating to the real property appraisal requirements for county assessors.

Highlighted Provisions:

This bill:

- defines terms;
- requires a county assessor of a first, second, or third class county to use a computer assisted mass appraisal system to conduct its annual update of property values;
- requires a county assessor to maintain a record of the last property review date for each parcel of real property located within the county assessor's county on the county's computer system;
- requires a county assessor to prepare a five-year plan to comply with the statutory property review requirements;
- requires a county assessor to include the last property review date for a parcel of property on the property owner's tax notice;
- provides a penalty if a county assessor fails to comply with statutory property review requirements; and
- makes technical changes.

2nd Sub. H.B. 54

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2009.

This bill coordinates with H.B. 186, Property Tax -- Assessment and Collection Amendments, by changing technical cross references.

Utah Code Sections Affected:

AMENDS:

59-2-102, as last amended by Laws of Utah 2007, Chapters 107, 234, and 329

59-2-303.1, as last amended by Laws of Utah 1995, Chapter 271

59-2-505, as last amended by Laws of Utah 2003, Chapter 208

59-2-906.2, as last amended by Laws of Utah 2005, Chapter 195

59-2-918.5, as last amended by Laws of Utah 2000, Chapter 61

59-2-918.6, as enacted by Laws of Utah 2007, Chapter 297

59-2-919, as last amended by Laws of Utah 2006, Chapters 26 and 104

59-2-1004, as last amended by Laws of Utah 2001, Chapter 106

59-2-1330, as last amended by Laws of Utah 2002, Chapters 196 and 240

ENACTS:

59-2-919.1, Utah Code Annotated 1953

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

Section 1. Section **59-2-102** is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) "Airline" means any air carrier operating interstate routes on a scheduled basis which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled routes.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides the same amount of ad valorem property tax revenue as was collected for the prior year, plus new growth, but exclusive of revenue from collections from redemptions, interest, and penalties.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

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

(ii) semiconductor manufacturing equipment.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles which are:

(i) especially constructed for towing or wrecking, and which are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by [~~Subsection 59-2-919(4)~~] Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon

incomplete or erroneous information furnished by the taxpayer.

(b) Property which is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17A-2-1326; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17A-2-1326.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a);

and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) moneys;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit; or

(c) goodwill.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Personal property" includes:

(a) every class of property as defined in Subsection (28) which is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock which, for the purposes of the exemption provided under Section 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(28) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(29) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(30) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(31) "Residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence. It does

not include property used for transient residential use or condominiums used in rental pools.

(32) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of miles calculated by the commission that is:

(a) measured in a straight line by the commission; and

(b) equal to the distance between a geographical location that begins or ends:

(i) at a boundary of the state; and

(ii) where an aircraft:

(A) takes off; or

(B) lands.

(33) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(34) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(35) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(36) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(37) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 2. Section **59-2-303.1** is amended to read:

59-2-303.1. Mandatory cyclical appraisals.

(1) For purposes of this section:

(a) "Corrective action" includes:

(i) factoring pursuant to Section 59-2-704;

(ii) notifying the state auditor that the county failed to comply with the requirements of this section; or

(iii) filing a petition for a court order requiring a county to take action.

(b) "Mass appraisal system" means a computer assisted mass appraisal system that:

(i) a county assessor uses to value real property; and

(ii) includes at least the following system features:

(A) has the ability to update all parcels of real property located within the county each year;

(B) can be programmed with specialized criteria;

(C) provides uniform and equal treatment of parcels within the same class of real property throughout the county; and

(D) annually updates all parcels of residential real property within the county.

(c) "Property review date" means the date a county assessor completes a detailed review of the property characteristics of a parcel of real property in accordance with Subsection (3)(a).

[~~(1) Beginning January 1, 1994, each~~] (2) (a) The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data. [~~In addition,~~]

(b) The county assessor of a county of the first, second, or third class shall conduct the annual update described in Subsection (2)(a) by using a mass appraisal system on or before the following:

(i) for a county of the first class, January 1, 2009;

(ii) for a county of the second class, January 1, 2010; and

(iii) for a county of the third class, January 1, 2011.

(c) The county assessor and the commission shall jointly certify that the county's mass appraisal system meets the requirements:

(i) described in Subsection (1)(b); and

(ii) of the commission.

(3) (a) In addition to the requirements in Subsection (2) , the county assessor shall

complete a detailed review of property characteristics for each property at least once every five years.

(b) The county assessor shall maintain on the county's computer system, a record of the last property review date for each parcel of real property located within the county assessor's county.

[~~(a)~~] (4) (a) The commission shall take corrective action if the commission determines that:

(i) a county assessor has not satisfactorily followed the current mass appraisal standards, as provided by law;

(ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures of appraisal performance related to the studies required by Section 59-2-704 are not within the standards provided by law; or

(iii) the county assessor has failed to comply with the requirements of [~~Subsection (1)~~] this section.

[~~(b) For purposes of this section, "corrective action" includes:~~]

[~~(i) factoring pursuant to Section 59-2-704;~~]

[~~(ii) notifying the state auditor that the county failed to comply with the requirements of this section; or~~]

[~~(iii) filing a petition for a court order requiring a county to take action.~~]

(b) If a county assessor fails to comply with the requirements of this section for one year, the commission shall assist the county assessor in fulfilling the requirements of Subsections (2) and (3).

(c) If a county assessor fails to comply with the requirements of this section for two consecutive years, the county will lose the county's allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy authorized in Sections 59-2-906.1 and 59-2-906.2.

(d) If a county loses its allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the revenue the county would have received shall:

(i) be retained in the Property Tax Valuation Agency Fund for that calendar year; and

(ii) distributed the following calendar year in accordance with Section 59-2-906.2.

[~~(2) (a) By July 1, 1993, each~~] (5) (a) On or before July 1, 2008, the county assessor shall prepare a five-year plan to comply with the requirements of [~~Subsection (1)~~] Subsections (2) and (3).

(b) The plan shall be available in the county assessor's office for review by the public upon request.

(c) The plan shall be annually reviewed and revised as necessary.

Section 3. Section **59-2-505** is amended to read:

59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair market value on certain property tax notices.

(1) (a) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:

(i) that meets the requirements of Section 59-2-503 to be assessed under this part; and

(ii) for which the owner has:

(A) made a timely application in accordance with Section 59-2-508 for assessment under this part for the tax year for which the land is being assessed; and

(B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the county assessor.

(b) If land that becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor shall consider only those indicia of value that the land has for agricultural use in accordance with Subsection (1)(a) when assessing the land.

(2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:

(a) [~~Subsection 59-2-919(4)~~] Section 59-2-919.1; and

(b) Section 59-2-1317.

(3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

Section 4. Section **59-2-906.2** is amended to read:

59-2-906.2. Disbursement of monies in the Property Tax Valuation Agency Fund -- Use of funds.

(1) Beginning January 1, 1994, the state auditor shall authorize disbursement of money from the Property Tax Valuation Agency Fund to each county as follows:

(a) subject to Subsection (6), each county of the first class shall receive a disbursement of 94.5% of the funds transmitted to the Property Tax Valuation Agency Fund by such counties; and

(b) subject to Subsection (7) and except as provided in Subsection 59-2-303.1(4), money derived from funds transmitted by counties of the second through sixth class and any remaining monies not distributed under Subsection (1)(a) shall be disbursed pro rata to counties of the second through sixth class based upon the number of adjusted parcel units in each county as determined in Subsection (2).

(2) (a) The number of adjusted parcel units in a county shall be determined by multiplying the sum of the following by the county parcel factor:

(i) the number of residential parcels multiplied by 2;

(ii) the number of commercial parcels multiplied by 4; and

(iii) the number of all other parcels multiplied by 1.

(b) For purposes of this subsection, the county parcel factor is:

(i) 0.9 for counties of the second class;

(ii) 1.0 for counties of the third class;

(iii) 1.05 for counties of the fourth class;

(iv) 1.15 for counties of the fifth class; and

(v) 1.3 for counties of the sixth class.

(3) Money in the Property Tax Valuation Agency Fund on the 10th day of the month following the end of the quarter in which the revenue is collected shall, upon authorization by the state auditor, be transmitted by the state treasurer according to the disbursement formula determined under Subsection (2) no later than five working days after the 10th day of the month following the end of the quarter in which the revenue is collected.

(4) If money in the Property Tax Valuation Agency Fund on the 10th day of the month following the end of the quarter in which the revenue is collected is not transmitted to a county within five working days of the 10th day of that month, except as provided for in Subsection (3), income from the investment of that money shall be:

(a) deposited in and become part of the Property Tax Valuation Agency Fund; and

(b) disbursed to the county in the next quarter.

(5) A county shall use money disbursed from the Property Tax Valuation Agency Fund for:

(a) establishing and maintaining accurate property valuations and uniform assessment levels as required by Section 59-2-103; and

(b) improving the efficiency of the property tax system.

(6) (a) For purposes of this Subsection (6), "retained funds" means the difference between:

(i) the funds transmitted by a county of the first class to the Property Tax Valuation Agency Fund under Subsection (1)(a); and

(ii) the disbursement described in Subsection (1)(a).

(b) Notwithstanding Subsection (1)(a), if the retained funds are:

(i) less than $250,000, the disbursement described in Subsection (1)(a) shall be reduced by the difference between:

(A) $250,000; and

(B) the retained funds; and

(ii) more than $500,000, the disbursement described in Subsection (1)(a) shall be increased by the difference between:

(A) the retained funds; and

(B) $500,000.

(7) Notwithstanding Subsection (1)(b):

(a) if the amount transmitted under Subsection (1)(b) by a county of the second class is:

(i) less than $100,000, the amount disbursed under Subsection (1)(b) to a county of the second class shall be reduced by the difference between:

(A) $100,000; and

(B) the amount transmitted under Subsection (1)(b) by a county of the second class; and

(ii) more than $250,000, the amount disbursed under Subsection (1)(b) to a county of the second class shall be increased by the difference between:

(A) the amount transmitted under Subsection (1)(b) by a county of the second class; and

(B) $250,000;

(b) if the amount transmitted under Subsection (1)(b) by a county of the third class is more than $250,000, the amount disbursed under Subsection (1)(b) to a county of the third class shall be increased by the difference between:

(i) the amount transmitted under Subsection (1)(b) by a county of the third class; and

(ii) $250,000;

(c) if the amount transmitted under Subsection (1)(b) by a county of the fourth class is more than $100,000, the amount disbursed under Subsection (1)(b) to a county of the fourth class shall be increased by the difference between:

(i) the amount transmitted under Subsection (1)(b) by a county of the fourth class; and

(ii) $100,000; and

(d) the amount disbursed under Subsection (1)(b) to a county of the fifth or sixth class shall not be less than the amount transmitted under Subsection (1)(b) by a county of the fifth or sixth class.

Section 5. Section **59-2-918.5** is amended to read:

59-2-918.5. Hearings on judgment levies -- Advertisement.

(1) A taxing entity may not impose a judgment levy unless it first advertises its intention to do so and holds a public hearing in accordance with the requirements of this section.

(2) (a) The advertisement required by this section may be combined with the advertisement required by either Section 59-2-918 or Section 59-2-919.

(b) The advertisement shall be at least 1/8 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919.

(c) (i) For taxing entities operating under a July 1 through June 30 fiscal year the public hearing shall be held at the same time as the hearing at which the annual budget is adopted.

(ii) For taxing entities operating under a January 1 through December 31 fiscal year:

(A) for eligible judgments issued from June 1 through December 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted; and

(B) for eligible judgments issued from December 16 through May 31, the public hearing shall be held at the same time as the hearing at which property tax levies are set.

(3) The advertisement shall specify the date, time, and location of the public hearing at

which the levy will be considered and shall set forth the total amount of the eligible judgment and the tax impact on an average residential and business property located within the taxing entity.

(4) If a final decision regarding the judgment levy is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the judgment levy.

(5) The date, time, and place of public hearings required by Subsections 59-2-918.5(c)(i) and 59-2-918.5(c)(ii)(B) shall be included on the notice mailed to property owners pursuant to [~~Subsection 59-2-919(4)~~] Section 59-2-919.1.

Section 6. Section **59-2-918.6** is amended to read:

59-2-918.6. New and remaining school district budgets -- Advertisement -- Public hearing.

(1) As used in this section, "existing school district," "new school district," and "remaining school district" are as defined in Section 53A-2-117.

(2) For the first fiscal year in which a new school district created under Section 53A-2-118.1 assumes responsibility for providing student instruction, the new school district and the remaining school district or districts may not impose a property tax unless the district imposing the tax:

(a) advertises its intention to do so in accordance with Subsection (3); and

(b) holds a public hearing in accordance with Subsection (4).

(3) The advertisement required by this section:

(a) may be combined with the advertisement required by either Section 59-2-918 or 59-2-919;

(b) shall be at least 1/4 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919; and

(c) shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the district's proposed property tax levy and the tax impact on an average residential and business property located within the taxing entity compared to the property tax levy imposed in the prior year by the existing school district.

(4) (a) The date, time, and place of public hearings required by this section shall be

included on the notice mailed to property owners pursuant to [~~Subsection 59-2-919(4)~~] Section 59-2-919.1.

(b) If a final decision regarding the property tax levy is not made at the public hearing, the school district shall announce at the public hearing the scheduled time and place for consideration and adoption of the budget and property tax levies.

Section 7. Section **59-2-919** is amended to read:

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

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.

(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.

(iv) Notwithstanding Subsection (1)(a)(i), a taxing entity is not required to meet the advertisement requirements of this section if Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the advertisement requirements of this section.

(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

(NAME OF TAXING ENTITY)

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

- If the proposed budget is approved, this would be an increase of _____% above the (name of the taxing entity) property tax budgeted revenue for the prior year.
- The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.
- The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

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

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

PUBLIC HEARING

Date/Time: (date) (time)

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

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

(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)~~] (4) (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)~~] 59-2-919.1(2)(c)(v), 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)~~] (5) (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)~~] (6) (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)~~] (7) A taxing entity shall hold a public hearing under this section beginning at or after 6 p.m.

Section 8. Section **59-2-919.1** is enacted to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to providing the notice required by Sections 59-2-918 and 59-2-919, 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.

(2) The notice described in Subsection (1) shall:

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

(i) the county board of equalization meets; and

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

(b) be printed on a form that is:

(i) approved by the commission; and

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

(c) contain for each property:

(i) the value of the property;

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

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

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

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

(iv) the tax impact on the property;

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

(vi) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes; and

(C) collection procedures;

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

(viii) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

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

Section 9. Section **59-2-1004** is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (2); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (2) if the county legislative body passes a resolution under Subsection (5) authorizing applications to be made by telephone or other electronic means.

(b) The contents of the application shall be prescribed by rule of the county board of equalization.

(2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor mails the notice under [~~Subsection 59-2-919(4)~~] Section 59-2-919.1.

(b) Notwithstanding Subsection (2)(a), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

(3) The owner shall include in the application under Subsection (1)(a)(i) the owner's estimate of the fair market value of the property and any evidence which may indicate that the assessed valuation of the owner's property is improperly equalized with the assessed valuation of comparable properties.

(4) (a) The county board of equalization shall meet and hold public hearings as prescribed in Section 59-2-1001.

(b) The county board of equalization shall make a decision on each appeal filed in accordance with this section within a 60-day period after the day on which the application is made.

(c) The commission may approve the extension of a time period provided for in Subsection (4)(b) for a county board of equalization to make a decision on an appeal.

(d) The decision of the board shall contain a determination of the valuation of the

property based on fair market value, and a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(e) If no evidence is presented before the county board of equalization, it will be presumed that the equalization issue has been met.

(f) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the valuation of the appealed property shall be adjusted to reflect a value equalized with the assessed value of comparable properties.

(ii) The equalized value established under Subsection (4)(f)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring them all into conformity with full fair market value.

(5) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.

(6) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 10. Section **59-2-1330** is amended to read:

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to the county assessor or the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year is required by a final and unappealable judgment or order described in Subsection (3) issued by:

(a) a county board of equalization;

(b) the commission; or

(c) a court of competent jurisdiction.

(3) (a) For purposes of Subsection (2), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection (2) are collected by an authorized officer of the:

(A) county; or

(B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

(A) from:

(I) a county board of equalization;

(II) the commission; or

(III) a court of competent jurisdiction;

(B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections (4) through (7).

(4) For purposes of Subsections (2) and (3), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (4)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (4)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (4)(a) and (4)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (4)(a);

(ii) Subsection (4)(b); and

(iii) Subsection (4)(c).

(5) For purposes of Subsections (2) and (3), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (5)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (5)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3); [~~and~~]

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (5)(a);

(ii) Subsection (5)(b); and

(iii) Subsection (5)(c).

(6) Except as provided in Subsection (7):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection (4)(c) or (5)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection (4)(d) or (5)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection (2); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection (4) or (5); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the state treasurer in accordance with Section 51-7-5.

(7) Notwithstanding Subsection (6):

(a) the state may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317; and

(b) a taxing entity may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

(8) (a) Each taxing entity may levy a tax to pay its share of the final and unappealable judgment or order described in Subsection (3) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the levy is set under Subsection 59-2-924(2)(a);

(ii) the amount of the judgment levy is included on the notice under Section [~~59-2-919~~] 59-2-919.1; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in

Section 59-2-102.

(b) The levy under Subsection (8)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

(9) (a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the date of delinquency established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection (9)(a) is not required to pay penalties or interest on an assessment described in Subsection (9)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection (9)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection (9)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

(10) (a) Except as provided in Subsection (10)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within 60 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection (3); or

(ii) if a judgment levy is imposed in accordance with Subsection (8):

(A) if the payment to the taxpayer required by this section is $5,000 or more, no later than December 31 of the year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than $5,000, within 60 days after the date the final and unappealable judgment or order is issued in accordance with Subsection (3).

(b) Notwithstanding Subsection (10)(a), a taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection (10)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Section 11. **Effective date.**

This bill takes effect on January 1, 2009.

Section 12. **Coordinating H.B. 54 with H.B. 186 -- Technical amendments.**

If this H.B. 54 and H.B. 186, Property Tax -- County Assessment and Collection Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) replace the references in Subsection 59-2-303.1(4) in this bill as follows:

(a) "Section 59-2-906.1" with "Section 59-2-1602"; and

(b) "Section 59-2-906.2" with "Section 59-2-1603"; and

(2) modify Subsection 59-2-1603(2) in H.B. 186 to read:

"[~~(b) subject to Subsection (7),~~] (2) Except as provided in Subsection 59-2-303.1(4), money derived from funds transmitted by contributing counties [~~of the second through sixth class and any remaining monies not distributed under Subsection (1)(a)~~] shall be disbursed pro rata to receiving counties of the second through sixth class based upon the number of adjusted parcel units in each county as determined in Subsection [~~(2)~~] (3) ."

H.B. 54 2nd Sub. (Gray) - Property Tax Assessment Revisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

2/12/2008, 3:08:50 PM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst