

## HB0156S01 compared with HB0156

~~{deleted text}~~ shows text that was in HB0156 but was deleted in HB0156S01.

inserted text shows text that was not in HB0156 but was inserted into HB0156S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

~~{PROPERTY TAX ASSESSMENT}~~ Representative Dixon M. Pitcher proposes the following substitute bill:

### ASSESSMENT OF PROPERTY WITH CONSERVATION EASEMENT

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dixon M. Pitcher**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

#### General Description:

This bill modifies provisions relating to the assessment of property by county assessors.

#### Highlighted Provisions:

This bill:

- ▶ modifies a provision requiring a county assessor to consider the effects of a conservation easement on the value of property;
- ▶ adds factors that a county assessor is required to consider in assessing property that is subject to a conservation easement; and
- ▶ requires the ~~{county to pay a taxpayer's costs involved in an appeal of the valuation of the taxpayer's property if the undervaluation was based on the assessor's failure to consider adequately the applicable factors}~~ owner of property for which a conservation easement is granted to notify the county assessor of the conservation

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easement.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

57-18-4, as enacted by Laws of Utah 1985, Chapter 155

59-2-301.1, as last amended by Laws of Utah 2010, Chapter 261

~~{ 59-2-1004, as last amended by Laws of Utah 2008, Chapters 231, 301, and 382~~

~~59-2-1006, as last amended by Laws of Utah 1992, Chapter 288~~

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

Section 1. Section 57-18-4 is amended to read:

#### **57-18-4. Requirements for creation.**

(1) Any property owner may grant a conservation easement to any other qualified person as defined in Section 57-18-3 in the same manner and with the same effect as any other conveyance of an interest in real property.

(2) (a) A conservation easement shall be in writing and shall be recorded in the office of the recorder of the county in which the easement is granted.

(b) Within 10 days after a conservation easement is recorded, the owner of real property for which the conservation easement is granted shall deliver to the assessor of the county in which the property is located a copy of the conservation easement and proof that the conservation easement has been recorded.

(c) Before January 1, 2012, each owner of property subject to a conservation easement recorded before May 10, 2011 shall deliver to the assessor of the county in which the property is located a copy of the conservation easement and proof that the conservation easement has been recorded.

(3) The instrument that creates a conservation easement shall identify and describe the land subject to the conservation easement by legal description, specify the purpose for which the easement is created, and include a termination date or a statement that the easement

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continue in perpetuity.

(4) Any qualified person, as defined in Section 57-18-3, that receives a conservation easement shall disclose to the easement's grantor, at least three days prior to the granting of the easement, the types of conservation easements available, the legal effect of each easement, and that the grantor should contact an attorney concerning any possible legal and tax implications of granting a conservation easement.

Section ~~59-2-301~~2. Section **59-2-301.1** is amended to read:

### **59-2-301.1. Assessment of property subject to a conservation easement -- Assessment of golf course or hunting club.**

(1) In assessing the fair market value of property subject to a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, a county assessor shall [~~include as part of the assessment any effects the conservation easement may have on~~] consider factors relating to the property and neighboring property that affect the fair market value of the property[-] being assessed, including:

(a) value that transfers to neighboring property because of the presence of a conservation easement on the property being assessed;

(b) practical and legal restrictions on the development potential of the property because of the presence of the conservation easement;

(c) the absence of neighboring property similarly subject to a conservation easement to provide a basis for comparing values between properties; and

(d) any other factor that causes the fair market value of the property to be affected because of the presence of a conservation easement.

(2) (a) In assessing the fair market value of a golf course or hunting club, a county assessor shall consider factors relating to the golf course or hunting club and neighboring property that affect the fair market value of the golf course or hunting club, including:

(i) value that transfers to neighboring property because of the presence of the golf course or hunting club;

(ii) practical and legal restrictions on the development potential of the golf course or hunting club; and

(iii) the history of operation of the golf course or hunting club and the likelihood that the present use will continue into the future.

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(b) The valuation method a county assessor may use in determining the fair market value of a golf course or hunting club includes:

- (i) the cost approach;
- (ii) the income capitalization approach; and
- (iii) the sales comparison approach.

~~{ Section 2. 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 Section 59-2-919.1.~~

~~(b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, 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~~

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~~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.~~

~~—— (g) A county shall pay a taxpayer's costs and expenses incurred in an appeal under this section, including an appraisal fee and reasonable attorney fee, if:~~

~~—— (i) the taxpayer's property that is the subject of the appeal is subject to a conservation easement;~~

~~—— (ii) the county board of equalization determines that the county assessor overvalued the taxpayer's property; and~~

~~—— (iii) the overvaluation is due to the county assessor's failure to account adequately for factors described in Subsection 59-2-301.1(1) affecting the fair market value of the property.~~

~~—— (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.~~

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~~—— (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 3. Section 59-2-1006 is amended to read:~~

~~—— 59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.~~

~~—— (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.~~

~~—— (2) The auditor shall:~~

~~—— (a) file one notice with the commission;~~

~~—— (b) certify and transmit to the commission:~~

~~—— (i) the minutes of the proceedings of the county board of equalization for the matter appealed;~~

~~—— (ii) all documentary evidence received in that proceeding; and~~

~~—— (iii) a transcript of any testimony taken at that proceeding that was preserved; and~~

~~—— (c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of the board of equalization as required by Section 59-2-1102.~~

~~—— (3) In reviewing the county board's decision, the commission may:~~

~~—— (a) admit additional evidence;~~

~~—— (b) issue orders that it considers to be just and proper; and~~

~~—— (c) make any correction or change in the assessment or order of the county board of equalization.~~

~~—— (4) In reviewing the county board's decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:~~

~~—— (a) the issue of equalization of property values is raised; and~~

~~—— (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.~~

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~~———— (5) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.~~

~~———— (6) A county shall pay a taxpayer's costs and expenses, including an appraisal fee and reasonable attorney fee, incurred in an appeal under this section and, if applicable, in a judicial review under Section 59-1-602 of a commission decision if:~~

~~———— (a) the taxpayer's property that is the subject of the appeal or judicial review is subject to a conservation easement;~~

~~———— (b) the commission or court determines that the county assessor overvalued the taxpayer's property; and~~

~~———— (c) the overvaluation is due to the county assessor's failure to account adequately for factors described in Subsection 59-2-301.1(1) affecting the fair market value of the property.~~

### **Legislative Review Note**

~~———— as of 2-1-11 6:08 PM~~

~~———— Office of Legislative Research and General Counsel}~~