

PROPERTY TAX ASSESSMENT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: _____

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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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 **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.

(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

59 (iii) the sales comparison approach.

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

61 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
62 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**
63 **commission.**

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

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

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

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

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

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

77 (ii) the last day of a 45-day period beginning on the day on which the county auditor
78 mails the notice under Section 59-2-919.1.

79 (b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah
80 Administrative Rulemaking Act, the commission shall make rules providing for circumstances
81 under which the county board of equalization is required to accept an application to appeal that
82 is filed after the time period prescribed in Subsection (2)(a).

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

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

89 (b) The county board of equalization shall make a decision on each appeal filed in

90 accordance with this section within a 60-day period after the day on which the application is
91 made.

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

94 (d) The decision of the board shall contain a determination of the valuation of the
95 property based on fair market value, and a conclusion that the fair market value is properly
96 equalized with the assessed value of comparable properties.

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

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

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

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

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

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

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

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

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

120 Section 3. Section **59-2-1006** is amended to read:

121 **59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.**

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

127 (2) The auditor shall:

128 (a) file one notice with the commission;

129 (b) certify and transmit to the commission:

130 (i) the minutes of the proceedings of the county board of equalization for the matter
131 appealed;

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

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

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

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

138 (a) admit additional evidence;

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

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

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

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

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

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

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

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

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

159 (c) the overvaluation is due to the county assessor's failure to account adequately for
160 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

FISCAL NOTE

H.B. 156

SHORT TITLE: **Property Tax Assessment**

SPONSOR: **Pitcher, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.