

URBAN FARMING ASSESSMENT ACT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Derek E. Brown

LONG TITLE

General Description:

This bill enacts provisions related to urban farming in counties of the first class.

Highlighted Provisions:

This bill:

▶ provides that land in a county of the first class that is used for urban farming may be assessed based on its value for agricultural purposes;

▶ provides for a 10-year rollback of taxes if the land ceases to be eligible for assessment under the urban farming provisions; and

▶ enacts provisions relating to the assessment of land used for urban farming.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

59-2-1701, Utah Code Annotated 1953

59-2-1702, Utah Code Annotated 1953

59-2-1703, Utah Code Annotated 1953

59-2-1704, Utah Code Annotated 1953

59-2-1705, Utah Code Annotated 1953



- 28 **59-2-1706**, Utah Code Annotated 1953
- 29 **59-2-1707**, Utah Code Annotated 1953
- 30 **59-2-1708**, Utah Code Annotated 1953
- 31 **59-2-1709**, Utah Code Annotated 1953
- 32 **59-2-1710**, Utah Code Annotated 1953
- 33 **59-2-1711**, Utah Code Annotated 1953
- 34 **59-2-1712**, Utah Code Annotated 1953



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

37 Section 1. Section **59-2-1701** is enacted to read:

38 **Part 17. Urban Farming Assessment Act**

39 **59-2-1701. Title.**

40 This part is known as the "Urban Farming Assessment Act."

41 Section 2. Section **59-2-1702** is enacted to read:

42 **59-2-1702. Definitions.**

43 As used in this part:

44 (1) "Actively devoted to urban farming" means that:

45 (a) over 50% of the land to which the phrase applies is being devoted to active urban
46 farming activities;

47 (b) the land does not contain a residential, commercial, or industrial structure; and

48 (c) the land produces in excess of 50% of the average agricultural production per acre:

49 (i) as determined under Section 59-2-1703; and

50 (ii) for the given type of land and the given county or area.

51 (2) "Rollback tax" means the tax imposed under Section 59-2-1705.

52 (3) "Urban farming" means cultivating, processing, and distributing food from land
53 located:

54 (a) in or around largely populated cities or towns; and

55 (b) in a county of the first class.

56 (4) "Withdrawn from this part" means that land that has been assessed under this part is
57 no longer assessed under this part or eligible for assessment under this part for any reason
58 including that:

- 59 (a) an owner voluntarily requests that the land be withdrawn from this part;
- 60 (b) the land is no longer actively devoted to urban farming;
- 61 (c) (i) the land has a change in ownership; and
- 62 (ii) (A) the new owner fails to apply for assessment under this part as required by
- 63 Section 59-2-1707; or
- 64 (B) an owner applies for assessment under this part, as required by Section 59-2-1707,
- 65 but the land does not meet the requirements of this part to be assessed under this part;
- 66 (d) (i) the legal description of the land changes; and
- 67 (ii) (A) an owner fails to apply for assessment under this part, as required by Section
- 68 59-2-1707; or
- 69 (B) an owner applies for assessment under this part, as required by Section 59-2-1707,
- 70 but the land does not meet the requirements of this part to be assessed under this part;
- 71 (e) if required by the county assessor, the owner of the land:
- 72 (i) fails to file a new application as provided in Subsection 59-2-1707(4); or
- 73 (ii) fails to file a signed statement as provided in Subsection 59-2-1707(4); or
- 74 (f) except as provided in Section 59-2-1703, the land fails to meet a requirement of
- 75 Section 59-2-1703.

76 Section 3. Section **59-2-1703** is enacted to read:

77 **59-2-1703. Qualifications for urban farming assessment.**

78 (1) For general property tax purposes, land may be assessed on the basis of the value
79 that the land has for agricultural use if the land:

- 80 (a) is actively devoted to urban farming; and
- 81 (b) is at least two contiguous acres, but less than five acres, in size.

82 (2) In determining whether land is actively devoted to urban farming, production per
83 acre for a given county or area and a given type of land shall be determined by using the first
84 applicable of the following:

- 85 (a) production levels reported in the current publication of the Utah Agricultural
- 86 Statistics;
- 87 (b) current crop budgets developed and published by Utah State University; and
- 88 (c) other acceptable standards of agricultural production designated by the commission
- 89 by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

90 Act.

91 (3) Notwithstanding Subsection (1)(b), a county board of equalization may grant a
92 waiver of the two-acre minimum for land upon:

93 (a) appeal by the owner; and

94 (b) submission of proof that:

95 (i) the failure to meet the two-acre minimum arose solely as a result of an acquisition
96 by a governmental entity by:

97 (A) eminent domain; or

98 (B) the threat or imminence of an eminent domain proceeding;

99 (ii) the land is actively devoted to urban farming; and

100 (iii) no change occurs in the ownership of the land.

101 Section 4. Section **59-2-1704** is enacted to read:

102 **59-2-1704. Indicia of value for urban farming assessment -- Inclusion of fair**
103 **market value on certain property tax notices.**

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

106 (a) that meets the requirements of Section 59-2-1703 to be assessed under this part; and

107 (b) for which the owner has:

108 (i) made a timely application in accordance with Section 59-2-1707 for assessment
109 under this part for the tax year for which the land is being assessed; and

110 (ii) obtained approval of the application described in Subsection (1)(b)(i) from the
111 county assessor.

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

114 (a) Section 59-2-919.1; and

115 (b) Section 59-2-1317.

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

118 Section 5. Section **59-2-1705** is enacted to read:

119 **59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**
120 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

121 (1) Except as provided in this section and Section 59-2-1710, land that is withdrawn
122 from this part is subject to a rollback tax imposed as provided in this section.

123 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part
124 within 120 days after the day on which the land is withdrawn from this part.

125 (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land
126 is withdrawn from this part is subject to a penalty equal to the greater of:

127 (i) \$10; and

128 (ii) 2% of the rollback tax due for the last year of the rollback period.

129 (3) (a) The county assessor shall determine the amount of the rollback tax by
130 computing the difference for the rollback period described in Subsection (3)(b) between:

131 (i) the tax paid while the land was assessed under this part; and

132 (ii) the tax that would have been paid had the property not been assessed under this
133 part.

134 (b) For purposes of this section, the rollback period is a time period that:

135 (i) begins on the later of:

136 (A) the date the land is first assessed under this part; and

137 (B) 10 years preceding the day on which the county assessor mails the notice required
138 by Subsection (5); and

139 (ii) ends the day on which the county assessor mails the notice required by Subsection
140 (5).

141 (4) (a) The county treasurer shall:

142 (i) collect the rollback tax; and

143 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien
144 on the property has been satisfied by:

145 (A) preparing a document that certifies that the rollback tax lien on the property has
146 been satisfied; and

147 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder
148 for recording.

149 (b) The rollback tax collected under this section shall:

150 (i) be paid into the county treasury; and

151 (ii) be paid by the county treasurer to the various taxing entities pro rata in accordance

152 with the property tax levies for the current year.

153 (5) (a) The county assessor shall mail to an owner of the land that is subject to a
154 rollback tax a notice that:

155 (i) the land is withdrawn from this part;

156 (ii) the land is subject to a rollback tax under this section; and

157 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
158 30 days after the day on which the county assessor mails the notice.

159 (b) (i) The rollback tax is due and payable on the day the county assessor mails the
160 notice required by Subsection (5)(a).

161 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that
162 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which
163 the county assessor mails the notice required by Subsection (5)(a).

164 (6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under
165 Subsection (7) are a lien on the land assessed under this part.

166 (b) The lien described in Subsection (6)(a) shall:

167 (i) arise upon the imposition of the rollback tax under this section;

168 (ii) end on the day on which the rollback tax and interest imposed under Subsection (7)
169 are paid in full; and

170 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

171 (7) (a) A delinquent rollback tax under this section shall accrue interest:

172 (i) from the date of delinquency until paid; and

173 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1
174 of the year in which the delinquency occurs.

175 (b) A rollback tax that is delinquent on September 1 of any year shall be included on
176 the notice required by Section 59-2-1317, along with interest calculated on that delinquent
177 amount through November 30 of the year in which the notice under Section 59-2-1317 is
178 mailed.

179 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an
180 amendment to this part is not subject to the rollback tax if the owner of the land notifies the
181 county assessor that the land is withdrawn from this part in accordance with Subsection (2).

182 (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of

183 an event other than an amendment to this part, whether voluntary or involuntary, is subject to
184 the rollback tax.

185 (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation
186 under Utah Constitution Article XIII, Section 3, is not subject to the rollback tax if the land
187 meets the requirements of Section 59-2-1703 to be assessed under this part.

188 (10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county
189 board of equalization:

190 (i) a decision by a county assessor to withdraw land from assessment under this part; or

191 (ii) the imposition of a rollback tax under this section.

192 (b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after
193 the day on which the county assessor mails the notice required by Subsection (5).

194 Section 6. Section **59-2-1706** is enacted to read:

195 **59-2-1706. Land included as urban farming.**

196 Land under a structure used in or related to urban farming, including a barn, shed, silo,
197 crib, and greenhouse, or under a facility used in or related to urban farming, including a lake,
198 dam, pond, stream, and irrigation ditch, is included in determining the total area of land
199 actively devoted to urban farming.

200 Section 7. Section **59-2-1707** is enacted to read:

201 **59-2-1707. Application -- Signed statement -- Consent to creation of a lien --**
202 **Consent to audit and review -- Notice.**

203 (1) For land to be assessed under this part, an owner of land eligible for assessment
204 under this part shall submit an application to the county assessor of the county in which the
205 land is located.

206 (2) An application required by Subsection (1) shall:

207 (a) be on a form:

208 (i) approved by the commission; and

209 (ii) provided to an owner:

210 (A) by the county assessor; and

211 (B) at the request of an owner;

212 (b) provide for the reporting of information related to this part;

213 (c) be submitted by:

214 (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the
215 land was not assessed under this part in the year before the application is submitted; or

216 (ii) the date otherwise required by this part for land that before the application being
217 submitted has been assessed under this part;

218 (d) be signed by all of the owners of the land that under the application would be
219 assessed under this part;

220 (e) be accompanied by the prescribed fees made payable to the county recorder;

221 (f) include a certification by an owner that the facts set forth in the application or
222 signed statement are true;

223 (g) include a statement that the application constitutes consent by the owners of the
224 land to the creation of a lien upon the land as provided in this part; and

225 (h) be recorded by the county recorder.

226 (3) The application required by Subsection (2) constitutes consent by the owners of the
227 land to the creation of a lien upon the land as provided in this part.

228 (4) (a) Once the application for assessment described in Subsection (1) has been
229 approved, the county may:

230 (i) require the owner to submit a new application or a signed statement:

231 (A) by written request of the county assessor; and

232 (B) that verifies that the land qualifies for assessment under this part; or

233 (ii) except as provided in Subsection (4)(b), require no additional signed statement or
234 application for assessment under this part.

235 (b) Notwithstanding Subsection (4)(a), a county shall require that an owner provide
236 notice if land is withdrawn from this part as provided in Section 59-2-1705.

237 (c) An application or signed statement required under Subsection (4)(a) shall be
238 submitted by the date specified in the written request of the county assessor for the application
239 or signed statement.

240 (5) A certification under Subsection (2)(f) is considered as if made under oath and
241 subject to the same penalties as provided by law for perjury.

242 (6) (a) All owners applying for participation under this part and all purchasers or
243 lessees signing statements under Subsection (7) are considered to have given their consent to a
244 field audit and review by:

- 245 (i) the commission;
- 246 (ii) the county assessor; or
- 247 (iii) the commission and the county assessor.

248 (b) The consent described in Subsection (6)(a) is a condition to the acceptance of any
 249 application or signed statement.

250 (7) Any owner of land eligible for assessment under this part, because a purchaser or
 251 lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may
 252 qualify the land for assessment under this part by submitting, with the application required
 253 under Subsection (2), a signed statement from that purchaser or lessee certifying those facts
 254 that would be necessary to meet the requirements of Section 59-2-1703 for assessment under
 255 this part.

256 Section 8. Section **59-2-1708** is enacted to read:

257 **59-2-1708. Change of ownership or legal description.**

258 (1) Subject to the other provisions of this section, land assessed under this part may
 259 continue to be assessed under this part if the land continues to comply with the requirements of
 260 this part, regardless of whether the land continues to have the same owner or legal description.

261 (2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the
 262 rollback tax as provided in Section 59-2-1705 if the land is withdrawn from this part.

263 (3) Notwithstanding Subsection (1), land is withdrawn from this part if:

264 (a) there is a change in:

265 (i) the ownership of the land; or

266 (ii) the legal description of the land; and

267 (b) after a change described in Subsection (3)(a):

268 (i) the land does not meet the requirements of Section 59-2-1703; or

269 (ii) an owner of the land fails to submit a new application for assessment as provided in
 270 Section 59-2-1707.

271 (4) An application required by this section shall be submitted within 120 days after the
 272 day on which there is a change described in Subsection (3)(a).

273 Section 9. Section **59-2-1709** is enacted to read:

274 **59-2-1709. Separation of land.**

275 Separation of a part of the land that is being valued, assessed, and taxed under this part,

276 either by conveyance or other action of the owner of the land, for a use other than urban
277 farming, subjects the land that is separated to liability for the applicable rollback tax, but does
278 not impair the continuance of urban farming valuation, assessment, and taxation for the
279 remaining land if it continues to meet the requirements of this part.

280 Section 10. Section **59-2-1710** is enacted to read:

281 **59-2-1710. Acquisition of land by governmental entity -- Requirements --**
282 **Rollback tax -- One-time in lieu fee payment -- Passage of title.**

283 (1) For purposes of this section, "governmental entity" means:

284 (a) the United States;

285 (b) the state;

286 (c) a political subdivision of the state, including a county, city, town, school district,
287 local district, and special service district; or

288 (d) an entity created by the state or the United States, including an agency, board,
289 bureau, commission, committee, department, division, institution, instrumentality, and office.

290 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental
291 entity is subject to the rollback tax imposed by this part if:

292 (i) before the governmental entity acquires the land, the land is assessed under this
293 part; and

294 (ii) after the governmental entity acquires the land, the land does not meet the
295 requirements of Section 59-2-1703 for assessment under this part.

296 (b) A person dedicating a public right-of-way to a governmental entity shall pay the
297 rollback tax imposed by this part if:

298 (i) a portion of the public right-of-way is located within a subdivision as defined in
299 Section 10-9a-103; or

300 (ii) in exchange for the dedication, the person dedicating the public right-of-way
301 receives money or other consideration.

302 (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is
303 not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee
304 payment as provided in Subsection (3)(b), if:

305 (i) the governmental entity acquires the land by eminent domain;

306 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

307 (B) the governmental entity provides written notice of the proceedings to the owner; or
308 (iii) the land is donated to the governmental entity.

309 (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the
310 governmental entity shall make a one-time in lieu fee payment:

311 (A) to the county treasurer of the county in which the land is located; and

312 (B) in an amount equal to the amount of rollback tax calculated under Section
313 59-2-1705.

314 (ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the
315 governmental entity shall make a one-time in lieu fee payment to the county treasurer of the
316 county in which the land is located:

317 (A) if the land remaining after the acquisition by the governmental entity meets the
318 requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section
319 59-2-1705 on the land acquired by the governmental entity; or

320 (B) if the land remaining after the acquisition by the governmental entity is less than
321 two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired
322 by the governmental entity and the land remaining after the acquisition by the governmental
323 entity.

324 (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute
325 the revenues generated by the payment:

326 (i) to the taxing entities in which the land is located; and

327 (ii) in the same proportion as the revenue from real property taxes is distributed.

328 (4) If a governmental entity acquires land subject to assessment under this part, title to
329 the land may not pass to the governmental entity until any tax, one-time in lieu fee, and
330 applicable interest due under this part are paid to the county treasurer.

331 Section 11. Section **59-2-1711** is enacted to read:

332 **59-2-1711. Tax list and duplicate.**

333 The factual details to be shown on the assessor's tax list and duplicate with respect to
334 land that is being valued, assessed, and taxed under this part are the same as those set forth by
335 the assessor with respect to other taxable property in the county.

336 Section 12. Section **59-2-1712** is enacted to read:

337 **59-2-1712. Rules prescribed by commission.**

338 The commission may promulgate rules and prescribe forms necessary to effectuate the
339 purposes of this part.

Legislative Review Note
as of **2-10-11 9:06 AM**

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 82

SHORT TITLE: **Urban Farming Assessment Act**

SPONSOR: **Niederhauser, W.**

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 may shift property tax burden from newly eligible greenbelt property owners to other property owners.