

1                                   **PROPERTY TAX INCREASE AMENDMENTS**

2   2013 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Jim Nielson**

5   Senate Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9           This bill establishes requirements related to an increase in property taxes.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ defines terms;
- 13           ▶ requires an opinion question vote, which meets certain requirements, prior to certain
- 14 property tax increases by a taxing entity;
- 15           ▶ authorizes a taxing entity to enact certain property tax increases if a majority of
- 16 voters voting on the opinion question approve the property tax increase; and
- 17           ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19           None

20 **Other Special Clauses:**

21           This bill takes effect on January 1, 2014.

22 **Utah Code Sections Affected:**

23 AMENDS:

24           **59-2-919**, as last amended by Laws of Utah 2010, Chapter 90

25 ENACTS:

26           **59-2-919.3**, Utah Code Annotated 1953

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

29 Section 1. Section **59-2-919** is amended to read:

30 **59-2-919. Notice, public hearing, resolution, and voter approval requirements for**  
31 **certain tax increases -- Exceptions -- Applicability of provisions.**

32 (1) As used in this section:

33 (a) "Ad valorem tax revenue" means ad valorem property tax revenue not including  
34 revenue from new growth as defined in Section 59-2-924.

35 (b) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year  
36 that begins on January 1 and ends on December 31.

37 (c) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year  
38 that begins on July 1 and ends on June 30.

39 (2) (a) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified  
40 tax rate unless the taxing entity:

41 ~~[(a)]~~ (i) to the extent required by this section, meets the:

42 ~~[(i)]~~ (A) notice requirements of this section; and

43 ~~[(ii)]~~ (B) public hearing requirements of this section; and

44 ~~[(b)]~~ (ii) adopts a resolution in accordance with this section.

45 (b) A taxing entity may not budget ad valorem property tax revenue that exceeds the  
46 nonvoted property tax revenue limit, as defined in Section 59-2-919.3, unless the taxing entity  
47 meets the requirements of Section 59-2-919.3.

48 (3) (a) Except as provided in Subsection (5), a calendar year taxing entity may levy a  
49 tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year  
50 taxing entity:

51 (i) (A) provides notice by meeting the advertisement requirements of Subsections (6)  
52 and (7) before the calendar year taxing entity conducts the public hearing at which the calendar  
53 year taxing entity's annual budget is adopted; and

54 (B) before the calendar year taxing entity levies a tax rate that exceeds the calendar  
55 year taxing entity's certified tax rate:

56 (I) provides notice by meeting the advertisement requirements of Subsections (6) and  
57 (7); or

58 (II) provides a notice by mail:

59 (Aa) on or no earlier than 14 days before the date the treasurer furnishes the notice  
60 required by Section 59-2-1317 for the calendar year immediately preceding the calendar year  
61 for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year  
62 taxing entity's certified tax rate;

63 (Bb) before the calendar year taxing entity conducts the public meeting at which the  
64 calendar year taxing entity's annual budget is adopted; and

65 (Cc) as provided in Subsection (3)(b); and

66 (ii) conducts a public hearing in accordance with Subsections (8) and (9):

67 (A) on or before the calendar year taxing entity conducts the public meeting at which  
68 the calendar year taxing entity's annual budget is adopted; and

69 (B) if the calendar year taxing entity provides the notice described in Subsection  
70 (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar  
71 year taxing entity's certified tax rate.

72 (b) For a calendar year taxing entity that provides the notice described in Subsection  
73 (3)(a)(i)(B)(II), the notice:

74 (i) shall be mailed to each owner of property:

75 (A) within the calendar year taxing entity; and

76 (B) listed on the assessment roll;

77 (ii) shall be printed on a form:

78 (A) developed by the commission; and

79 (B) that, as determined by the commission, may be combined with:

80 (I) a notice described in Subsection (3)(a)(i)(B)(II) provided by one or more other  
81 calendar year taxing entities; or

82 (II) the notice required by Section 59-2-1317;

83 (iii) shall contain for each property described in Subsection (3)(b)(i):

84 (A) the value of the property for the calendar year immediately preceding the calendar  
85 year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar  
86 year taxing entity's certified tax rate;

87 (B) the tax on the property for the calendar year immediately preceding the calendar  
88 year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar  
89 year taxing entity's certified tax rate; and

90 (C) the estimated tax on the property:

91 (I) for the calendar year for which the calendar year taxing entity seeks to levy a tax  
92 rate that exceeds the calendar year taxing entity's certified tax rate; and

93 (II) calculated on the basis of data for the calendar year immediately preceding the  
94 calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the  
95 calendar year taxing entity's certified tax rate;

96 (iv) shall contain the following statement:

97 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar  
98 year]. This notice contains estimates of the tax on your property and the proposed tax increase  
99 on your property as a result of this tax increase. These estimates are calculated on the basis of  
100 [insert previous applicable calendar year] data. The actual tax on your property and proposed  
101 tax increase on your property may vary from this estimate.";

102 (v) shall state the date, time, and place of the public hearing that will be held to discuss  
103 the calendar year taxing entity's annual budget; and

104 (vi) may contain other property tax information approved by the commission.

105 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate  
106 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

107 (a) provides notice by meeting the advertisement requirements of Subsections (6) and  
108 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year  
109 taxing entity's annual budget is adopted; and

110 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the  
111 fiscal year taxing entity's annual budget is adopted.

112 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements  
113 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with  
114 the requirements of this section.

115 (b) (i) Except as provided in Subsection (5)(b)(ii), a taxing entity is not required to  
116 meet the notice or public hearing requirements of Subsection (3) or (4) if:

117 (A) the taxing entity is a party to an interlocal agreement under Title 11, Chapter 13,  
118 Interlocal Cooperation Act, that creates an interlocal entity to provide fire protection,  
119 emergency, and emergency medical services;

120 (B) the tax rate increase is approved by the taxing entity's voters at an election held for

121 that purpose on or before December 31, 2010;

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

124 (D) at least 30 days before the taxing entity's annual budget hearing, the taxing entity:

125 (I) adopts a resolution certifying that:

126 (Aa) the taxing entity will dedicate all revenue from the tax rate increase exclusively to  
127 pay for fire protection, emergency, and emergency medical services provided by the interlocal  
128 entity; and

129 (Bb) the amount of other revenues, independent of the revenue generated from the tax  
130 rate increase, that the taxing entity spends for fire protection, emergency, and emergency  
131 medical services each year after the tax rate increase will not decrease below the amount spent  
132 by the taxing entity during the year immediately before the tax rate increase without a  
133 corresponding decrease in the taxing entity's property tax revenues used in calculating the  
134 taxing entity's certified tax rate; and

135 (II) sends a copy of the resolution to the commission.

136 (ii) The exception under Subsection (5)(b)(i) from the notice and public hearing  
137 requirements of Subsection (3) or (4) does not apply to an increase in a taxing entity's tax rate  
138 that occurs after December 31, 2010, even if the tax rate increase is approved by the taxing  
139 entity's voters before that date.

140 (c) A taxing entity is not required to meet the notice requirements of Subsection (3) or  
141 (4) if:

142 (i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that  
143 certified tax rate without having to comply with the notice provisions of this section; or

144 (ii) the taxing entity:

145 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;  
146 and

147 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax  
148 revenues.

149 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this  
150 section shall be published:

151 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of

152 general circulation in the taxing entity;

153 (ii) electronically in accordance with Section 45-1-101; and

154 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

155 (b) The advertisement described in Subsection (6)(a)(i) shall:

156 (i) be no less than 1/4 page in size;

157 (ii) use type no smaller than 18 point; and

158 (iii) be surrounded by a 1/4-inch border.

159 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that

160 portion of the newspaper where legal notices and classified advertisements appear.

161 (d) It is the intent of the Legislature that:

162 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a

163 newspaper that is published at least one day per week; and

164 (ii) the newspaper or combination of newspapers selected:

165 (A) be of general interest and readership in the taxing entity; and

166 (B) not be of limited subject matter.

167 (e) (i) The advertisement:

168 (A) described in Subsection (6)(a)(i) shall:

169 (I) except as provided in Subsection (6)(e)(ii), be run once each week for the two

170 weeks:

171 (Aa) before a taxing entity conducts a public hearing at which the taxing entity's annual

172 budget is discussed; and

173 (Bb) if a calendar year taxing entity provides the notice described in Subsection

174 (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar

175 year taxing entity's certified tax rate; and

176 (II) state that the taxing entity will meet on a certain day, time, and place fixed in the

177 advertisement, which shall be not less than seven days after the day the first advertisement is

178 published, for the purpose of hearing comments regarding any proposed increase and to explain

179 the reasons for the proposed increase; or

180 (B) described in Subsection (6)(a)(ii) shall:

181 (I) be published two weeks:

182 (Aa) before a taxing entity conducts a public hearing at which the taxing entity's annual

183 budget is discussed; and

184 (Bb) if a calendar year taxing entity provides the notice described in Subsection  
185 (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar  
186 year taxing entity's certified tax rate; and

187 (II) state that the taxing entity will meet on a certain day, time, and place fixed in the  
188 advertisement, which shall be not less than seven days after the day the first advertisement is  
189 published, for the purpose of hearing comments regarding any proposed increase and to explain  
190 the reasons for the proposed increase.

191 (ii) If a taxing entity's public hearing information is published by the county auditor in  
192 accordance with Section 59-2-919.2, the taxing entity is not subject to the requirement to run  
193 the advertisement twice, as required by Subsection (6)(e)(i)(A), but shall run the advertisement  
194 once during the week:

195 (A) before the taxing entity conducts a public hearing at which the taxing entity's  
196 annual budget is discussed; and

197 (B) if a calendar year taxing entity provides the notice described in Subsection  
198 (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar  
199 year taxing entity's certified tax rate.

200 (f) (i) For purposes of Subsection (3)(a)(i)(A) or (4)(a), the form and content of an  
201 advertisement shall be substantially as follows:

202 "NOTICE OF PROPOSED TAX INCREASE

203 (NAME OF TAXING ENTITY)

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

205 ● The (name of the taxing entity) tax on a (insert the average value of a residence  
206 in the taxing entity rounded to the nearest thousand dollars) residence would  
207 increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

208 ● The (name of the taxing entity) tax on a (insert the value of a business having  
209 the same value as the average value of a residence in the taxing entity) business  
210 would increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

211 ● If the proposed budget is approved, (name of the taxing entity) would increase  
212 its property tax budgeted revenue by \_\_\_% above last year's property tax  
213 budgeted revenue excluding new growth.

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

215 PUBLIC HEARING

216 Date/Time: (date) (time)

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

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

220 (ii) For purposes of Subsection (3)(a)(i)(B)(I), the form and content of an  
221 advertisement shall be substantially as follows:

222 "NOTICE OF PROPOSED TAX INCREASE  
223 (NAME OF TAXING ENTITY)

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

225 • The (name of the taxing entity) tax on a (insert the average value of a residence  
226 in the taxing entity rounded to the nearest thousand dollars) residence would  
227 increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

228 • The (name of the taxing entity) tax on a (insert the value of a business having  
229 the same value as the average value of a residence in the taxing entity) business  
230 would increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

231 • If the proposed budget is approved, (name of the taxing entity) would increase  
232 its property tax budgeted revenue by \_\_\_% above last year's property tax  
233 budgeted revenue excluding new growth.

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

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

237 PUBLIC HEARING

238 Date/Time: (date) (time)

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

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

242 (7) The commission:

243 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative  
244 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by



245 two or more taxing entities; and

246 (b) subject to Section 45-1-101, may authorize:

247 (i) the use of a weekly newspaper:

248 (A) in a county having both daily and weekly newspapers if the weekly newspaper  
249 would provide equal or greater notice to the taxpayer; and

250 (B) if the county petitions the commission for the use of the weekly newspaper; or

251 (ii) the use by a taxing entity except for a calendar year taxing entity that provides the  
252 notice described in Subsection (3)(a)(i)(B)(II) of a commission approved direct notice to each  
253 taxpayer if:

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

255 (B) the direct notice is different and separate from that provided for in Section  
256 59-2-919.1; and

257 (C) the taxing entity petitions the commission for the use of a commission approved  
258 direct notice.

259 (8) (a) (i) A taxing entity shall on or before March 1 notify the county legislative body  
260 in which the taxing entity is located of the date, time, and place of the first public hearing at  
261 which the taxing entity's annual budget will be discussed.

262 (ii) A county that receives notice from a taxing entity under Subsection (8)(a)(i) shall  
263 include on the notice required by Section 59-2-919.1 the date, time, and place of the public  
264 hearing described in Subsection (8)(a)(i).

265 (b) (i) A public hearing described in this section shall be open to the public.

266 (ii) The governing body of a taxing entity conducting a public hearing described in this  
267 section shall provide an interested party desiring to be heard an opportunity to present oral  
268 testimony within reasonable time limits.

269 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a  
270 public hearing described in this section at the same time as the public hearing of another  
271 overlapping taxing entity in the same county.

272 (ii) The taxing entities in which the power to set tax levies is vested in the same  
273 governing board or authority may consolidate the public hearings described in this section into  
274 one public hearing.

275 (d) A county legislative body shall resolve any conflict in public hearing dates and

276 times after consultation with each affected taxing entity.

277 (e) A taxing entity shall hold a public hearing described in this section beginning at or  
278 after 6 p.m.

279 (9) (a) If a taxing entity does not make a final decision on budgeting an increased  
280 amount of ad valorem tax revenue at a public hearing described in this section, the taxing entity  
281 shall announce at that public hearing the scheduled time and place of the next public meeting at  
282 which the taxing entity will consider budgeting the increased amount of ad valorem tax  
283 revenue.

284 (b) (i) If a calendar year taxing entity that conducts a public hearing in accordance with  
285 Subsection (3)(b)(ii) does not adopt a resolution levying a tax rate on the day of the public  
286 hearing, the taxing entity shall announce at that public hearing the scheduled time and place of  
287 the next public meeting at which the taxing entity will consider adopting a resolution levying  
288 the tax rate.

289 (ii) If a taxing entity except for a taxing entity described in Subsection (5)(a) or (b) will  
290 consider adopting a resolution levying a tax rate at a day and time that is more than two weeks  
291 after the public hearing described in Subsection 59-2-919.1(2)(c)(v), the taxing entity shall  
292 meet the notice requirements of Subsection (3)(a)(i)(B)(I).

293 (10) (a) A taxing entity may adopt a resolution levying a tax rate that exceeds the  
294 taxing entity's certified tax rate if the taxing entity, to the extent required by this section, meets  
295 the:

296 (i) notice requirements of this section; and

297 (ii) public hearing requirements of this section.

298 (b) A public hearing on levying a tax rate that exceeds a taxing entity's certified tax rate  
299 may coincide with a public hearing on the taxing entity's proposed annual budget.

300 (11) The amendments to this section in Laws of Utah 2009, Chapter 204, apply to:

301 (a) for a fiscal year taxing entity, the fiscal year that begins on July 1, 2009; or

302 (b) for a calendar year taxing entity, the fiscal year that begins on January 1, 2010.

303 Section 2. Section **59-2-919.3** is enacted to read:

304 **59-2-919.3. Definitions -- Property tax revenue increase that exceeds nonvoted**  
305 **property tax revenue limit -- Opinion question -- Taxing entity authority to impose tax**  
306 **rate.**

307 (1) As used in this section:

308 (a) "Ad valorem property tax revenues" is as defined in Section 59-2-924.

309 (b) "Certified tax rate" is as defined in Section 59-2-924.

310 (c) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code,

311 and defined in Section 1(f)(5), Internal Revenue Code.

312 (d) "New growth" is as defined in Section 59-2-924.

313 (e) "Nonvoted property tax revenue limit" means, for a taxable year, the sum of:

314 (i) ad valorem property tax revenues budgeted by the taxing entity in the prior year;

315 (ii) revenue from new growth in the current year; and

316 (iii) the product of:

317 (A) the taxing entity's budgeted ad valorem property tax revenues in the prior year; and

318 (B) the annual percentage change in the consumer price index in the most recent year.

319 (2) Beginning January 1, 2014, in addition to any other requirements of this part,

320 before budgeting ad valorem property tax revenues that exceed the nonvoted property tax

321 revenue limit, a taxing entity shall submit an opinion question to the taxing entity's registered

322 voters voting on exceeding the nonvoted property tax revenue limit so that each registered

323 voter has the opportunity to express the registered voter's opinion on whether the taxing entity

324 should exceed the nonvoted property tax revenue limit.

325 (3) The opinion question required by this section shall state:

326 "Shall (insert the name of the taxing entity) be authorized to impose a tax rate that

327 would result in the collection of increased property tax revenue? If this tax rate is imposed,

328 property tax revenue for (insert the name of the taxing entity) would increase by (insert

329 aggregate dollar amount of increase) above the prior year's budgeted property tax revenue.

330 This increase is (insert aggregate dollar amount of increase) above the nonvoted property tax

331 revenue limit. The increase would result in a property tax increase of (insert dollar amount of

332 property tax increase) as compared to last year for a primary residence having an assessed value

333 of (insert median assessed value of a primary residence within the taxing entity). Revenue

334 received from this increase will be used for (insert intended use of revenue)."

335 (4) The election required by this section shall be held at:

336 (a) a regular general election conducted in accordance with the procedures and

337 requirements of Title 20A, Election Code, governing regular elections; or

338           (b) at a municipal general election conducted in accordance with the procedures and  
339 requirements of Section 20A-1-202.

340           (5) If a majority of the taxing entity's registered voters voting on exceeding the  
341 nonvoted property tax revenue limit vote in favor of exceeding the nonvoted property tax  
342 revenue limit, the taxing entity may, no later than two years after the date of the canvass of the  
343 election, impose a tax rate up to the tax rate that generates the increase in ad valorem property  
344 tax revenues authorized by the vote.

345           Section 3. **Effective date.**

346           This bill takes effect on January 1, 2014.

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**Legislative Review Note**  
as of **2-22-13 10:13 AM**

**Office of Legislative Research and General Counsel**