

HB0435S01 compared with HB0435

~~deleted text~~ shows text that was in HB0435 but was deleted in HB0435S01.

inserted text shows text that was not in HB0435 but was inserted into HB0435S01.

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 bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Douglas V. Sagers proposes the following substitute bill:

TAXATION OF PROPERTY AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the taxation of property.

Highlighted Provisions:

This bill:

- ▶ defines "diminished productive value";
- ▶ requires a county assessor to consider diminished productive value in determining the fair market value of property;
- ▶ requires a county assessor, under certain circumstances, to consider whether property has been used for hazardous waste storage or radioactive waste storage in determining fair market value;
- ▶ provides that provisions requiring a county assessor to consider certain factors in determining the fair market value of property apply to the privilege tax; and

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- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:

AMENDS:

59-4-101, as last amended by Laws of Utah 2006, Chapter 36

ENACTS:

59-2-301.6, Utah Code Annotated 1953

59-2-301.7, Utah Code Annotated 1953

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

Section 1. Section **59-2-301.6** is enacted to read:

59-2-301.6. Definitions -- Assessment of property having a diminished productive value.

(1) As used in this section, "diminished productive value" means that property has no, or a significantly reduced, ability to generate income as a result of:

(a) a parcel size requirement established under a land use ordinance or zoning map adopted by a:

(i) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use Ordinances;

or

(ii) a county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances;

(b) the property being severed from other property in a manner that permanently restricts the ability to generate income from the property; or

(c) a particular right of use being severed from the property in a manner that permanently restricts the ability to generate income from the property.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether property has diminished productive value.

(3) This section does not prohibit a county assessor from including as part of a

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determination of the fair market value of property any other factor affecting the fair market value of the property.

Section 2. Section 59-2-301.7 is enacted to read:

59-2-301.7. Definitions -- Assessment of property used for radioactive or hazardous waste storage.

(1) As used in this section:

(a) "Hazardous waste" is as defined in Section 19-6-102.

(b) (i) "Radioactive waste" means:

(A) low-level radioactive waste as defined in 42 U.S.C. Sec. 10101; or

(B) high-level radioactive waste as defined in 42 U.S.C. Sec. 10101.

(ii) "Radioactive waste" does not include naturally occurring radioactive materials.

(2) ~~for~~ Subject to Subsection (3), in assessing the fair market value of property, a county assessor shall consider, as part of the determination of fair market value, whether property that is not currently used for the storage of hazardous waste or radioactive waste has been used in the past for the storage of hazardous waste or radioactive waste in a manner that affects:

(a) the functionality of the property;

(b) the ability to use the property; or

(c) property rights.

(3) Subsection (2) applies to the extent a county assessor knows, or reasonably should have known, that property has been used in the past for the storage of hazardous waste or radioactive waste.

(~~3~~4) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Section ~~(2)~~3. Section 59-4-101 is amended to read:

59-4-101. Tax basis -- Exceptions -- Assessment and collection.

(1) (a) Except as provided in Subsections (1)(b) and (c), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property which for any reason is exempt from taxation, if that property is used in connection with a business conducted for profit.

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(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property. The amount of any payments which are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property which is a concession in, or relative to, the use of a public airport, park, fairground, or similar property which is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates. Every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right, permit, or easement except from brines of the Great Salt Lake, is considered to be in possession of the premises, notwithstanding the fact that other parties may have a similar right to remove or extract another mineral from the same lands or estates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

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(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property which is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

(5) Sections 59-2-301.1 through 59-2-301.67 apply for purposes of assessing a tax under this chapter.

Section ~~3}4~~4. **Effective date.**

This bill takes effect on January 1, 2015.

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Legislative Review Note

~~as of 2-28-14 9:10 AM~~

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