

1 **TAXATION OF PROPERTY AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Douglas V. Sagers**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to the taxation of property.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ requires a county assessor to consider whether property has been used for hazardous
- 13 waste storage or radioactive waste storage in determining fair market value;
- 14 ▶ provides that provisions requiring a county assessor to consider certain factors in
- 15 determining the fair market value of property apply to the privilege tax; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill takes effect on January 1, 2015.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-4-101**, as last amended by Laws of Utah 2006, Chapter 36

24 ENACTS:

25 **59-2-301.6**, Utah Code Annotated 1953

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



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

29 **59-2-301.6. Definitions -- Assessment of property used for radioactive or**
30 **hazardous waste storage.**

31 (1) As used in this section:

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

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

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

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

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

37 (2) In assessing the fair market value of property, a county assessor shall consider, as
38 part of the determination of fair market value, whether property that is not currently used for
39 the storage of hazardous waste or radioactive waste has been used in the past for the storage of
40 hazardous waste or radioactive waste in a manner that affects:

41 (a) the functionality of the property;

42 (b) the ability to use the property; or

43 (c) property rights.

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

47 Section 2. Section **59-4-101** is amended to read:

48 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

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

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

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

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

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

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

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

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

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

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

81 (f) the use or possession of property by a public agency, as defined in Section
82 [11-13-103](#), to the extent that the ownership interest of the public agency in that property is
83 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

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

86 (4) A tax imposed under this chapter is assessed to the possessors or users of the
87 property on the same forms, and collected and distributed at the same time and in the same
88 manner, as taxes assessed owners, possessors, or other claimants of property which is subject to
89 ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt

90 property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

91 (5) Sections [59-2-301.1](#) through [59-2-301.6](#) apply for purposes of assessing a tax under
92 this chapter.

93 Section 3. **Effective date.**

94 This bill takes effect on January 1, 2015.

Legislative Review Note

as of 2-28-14 9:10 AM

Office of Legislative Research and General Counsel