

AGRICULTURE STRUCTURE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill addresses the regulation and taxation of certain structures used in agriculture.

Highlighted Provisions:

This bill:

- ▶ defines the term "high tunnel";
- ▶ states that a municipality may not prohibit the construction, installation, or use of a high tunnel;
- ▶ states that a municipality building code does not apply to a high tunnel;
- ▶ states that a high tunnel is exempt from assessment for taxation purposes; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-507, as last amended by Laws of Utah 2001, Chapter 9

59-2-1101, as last amended by Laws of Utah 2013, Chapter 248

59-2-1102, as last amended by Laws of Utah 2012, Chapter 369

ENACTS:



28 10-9a-525, Utah Code Annotated 1953



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

31 Section 1. Section **10-9a-525** is enacted to read:

32 **10-9a-525. High tunnels -- Exemption from municipal regulation.**

33 (1) As used in this section, "high tunnel" means a structure that:

34 (a) is used for the production, processing, keeping, storing, sale, or shelter of an
35 agricultural commodity; and

36 (b) has a:

37 (i) metal, wood, or plastic frame;

38 (ii) plastic, woven textile, or other flexible covering; and

39 (iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

40 (2) A municipality may not adopt or enforce an ordinance or regulation that prohibits
41 the construction, installation, or use of a high tunnel.

42 (3) A municipal building code does not apply to a high tunnel.

43 (4) No building permit shall be required for the construction of a high tunnel.

44 Section 2. Section **59-2-507** is amended to read:

45 **59-2-507. Land included as agricultural -- Site of farmhouse excluded -- Taxation**
46 **of structures and site of farmhouse.**

47 (1) (a) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes,
48 dams, ponds, streams, and irrigation ditches and like facilities is included in determining the
49 total area of land actively devoted to agricultural use.

50 (b) Land [which] ~~that~~ is under [the] a farmhouse and land used in connection with [the]
51 a farmhouse is excluded from [that] the determination described in Subsection (1)(a).

52 (2) [~~All structures which are located on land in agricultural use, the farmhouse and the~~
53 ~~land on which the farmhouse is located, and land used in connection with the farmhouse,] The~~
54 following shall be valued, assessed, and taxed using the same standards, methods, and
55 procedures that apply to other taxable structures and other land in the county[:]:

56 (a) a structure, except as provided in Subsection (3), that is located on land in
57 agricultural use;

58 (b) a farmhouse and the land on which the farmhouse is located; and

59 (c) land used in connection with a farmhouse.

60 (3) A high tunnel, as defined in Section [10-9a-525](#), is exempt from assessment for
61 taxation purposes.

62 Section 3. Section **59-2-1101** is amended to read:

63 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
64 **for certain property -- County legislative body authority to adopt rules or ordinances.**

65 (1) As used in this section:

66 (a) "Educational purposes" includes:

67 (i) the physical or mental teaching, training, or conditioning of competitive athletes by
68 a national governing body of sport recognized by the United States Olympic Committee that
69 qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

70 (ii) an activity in support of or incidental to the teaching, training, or conditioning
71 described in Subsection (1)(a)(i).

72 (b) "Exclusive use exemption" means a property tax exemption under Subsection
73 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or
74 educational purposes.

75 (c) "Government exemption" means a property tax exemption provided under
76 Subsection (3)(a)(i), (ii), or (iii).

77 (d) "Nonprofit entity" includes an entity if the:

78 (i) entity is treated as a disregarded entity for federal income tax purposes;

79 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;
80 and

81 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit
82 entity.

83 (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this
84 part.

85 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if
86 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

87 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional
88 tax based upon the length of time that the property was not owned by the claimant if:

89 (i) the claimant is a federal, state, or political subdivision entity described in

90 Subsection (3)(a)(i), (ii), or (iii); or
91 (ii) pursuant to Subsection (3)(a)(iv):
92 (A) the claimant is a nonprofit entity; and
93 (B) the property is used exclusively for religious, charitable, or educational purposes.
94 (c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's
95 exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the
96 claimant is the owner of the property as of January 1 of the year the exemption is claimed if the
97 claimant is:
98 (i) the unmarried surviving spouse of:
99 (A) a deceased veteran with a disability as defined in Section 59-2-1104; or
100 (B) a veteran who was killed in action or died in the line of duty as defined in Section
101 59-2-1104; or
102 (ii) a minor orphan of:
103 (A) a deceased veteran with a disability as defined in Section 59-2-1104; or
104 (B) a veteran who was killed in action or died in the line of duty as defined in Section
105 59-2-1104.
106 (3) (a) The following property is exempt from taxation:
107 (i) property exempt under the laws of the United States;
108 (ii) property of:
109 (A) the state;
110 (B) school districts; and
111 (C) public libraries;
112 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
113 (A) counties;
114 (B) cities;
115 (C) towns;
116 (D) local districts;
117 (E) special service districts; and
118 (F) all other political subdivisions of the state;
119 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or
120 educational purposes;

- 121 (v) places of burial not held or used for private or corporate benefit;
- 122 (vi) farm equipment and machinery;
- 123 (vii) a high tunnel, as defined in Section [10-9a-525](#);
- 124 [~~vii~~] (viii) intangible property; and
- 125 [~~viii~~] (ix) the ownership interest of an out-of-state public agency, as defined in
- 126 Section [11-13-103](#):
- 127 (A) if that ownership interest is in property providing additional project capacity, as
- 128 defined in Section [11-13-103](#); and
- 129 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 130 [11-13-302](#).
- 131 (b) For purposes of a property tax exemption for property of school districts under
- 132 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 133 Schools Act, is considered to be a school district.
- 134 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
- 135 a government exemption ceases to qualify for the exemption because of a change in the
- 136 ownership of the property:
- 137 (a) the new owner of the property shall pay a proportional tax based upon the period of
- 138 time:
- 139 (i) beginning on the day that the new owner acquired the property; and
- 140 (ii) ending on the last day of the calendar year during which the new owner acquired
- 141 the property; and
- 142 (b) the new owner of the property and the person from whom the new owner acquires
- 143 the property shall notify the county assessor, in writing, of the change in ownership of the
- 144 property within 30 days from the day that the new owner acquires the property.
- 145 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
- 146 (4)(a):
- 147 (a) is subject to any exclusive use exemption or government exemption that the
- 148 property is entitled to under the new ownership of the property; and
- 149 (b) applies only to property that is acquired after December 31, 2005.
- 150 (6) A county legislative body may adopt rules or ordinances to:
- 151 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation

152 provided in this part; and

153 (b) designate one or more persons to perform the functions given the county under this
154 part.

155 Section 4. Section **59-2-1102** is amended to read:

156 **59-2-1102. Determination of exemptions by board of equalization -- Appeal --**
157 **Application for exemption -- Annual statement -- Exceptions.**

158 (1) (a) For property assessed under Part 3, County Assessment, the county board of
159 equalization may, after giving notice in a manner prescribed by rule, determine whether certain
160 property within the county is exempt from taxation.

161 (b) The decision of the county board of equalization described in Subsection (1)(a)
162 shall:

163 (i) be in writing; and

164 (ii) include:

165 (A) a statement of facts; and

166 (B) the statutory basis for its decision.

167 (c) Except as provided in Subsection (11)(a), a copy of the decision described in
168 Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

169 (2) The county board of equalization shall notify an owner of exempt property that has
170 previously received an exemption but failed to file an annual statement in accordance with
171 Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or
172 before April 1.

173 (3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction
174 may not be made under this part in the value of property and an exemption may not be granted
175 under this part unless the party affected or the party's agent:

176 (i) makes and files with the county board of equalization a written application for the
177 reduction or exemption, verified by signed statement; and

178 (ii) appears before the county board of equalization and shows facts upon which it is
179 claimed the reduction should be made, or exemption granted.

180 (b) Notwithstanding Subsection (9), the county board of equalization may waive:

181 (i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or
182 (9)(a); or

183 (ii) the annual statement requirements of Subsection (9)(c).

184 (4) (a) Before the county board of equalization grants any application for exemption or
185 reduction, the county board of equalization may examine under oath the person or agent
186 making the application.

187 (b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption
188 granted unless the person or the agent making the application attends and answers all questions
189 pertinent to the inquiry.

190 (5) For the hearing on the application, the county board of equalization may subpoena
191 any witnesses, and hear and take any evidence in relation to the pending application.

192 (6) Except as provided in Subsection (11)(b), the county board of equalization shall
193 hold hearings and render a written decision to determine any exemption on or before May 1 in
194 each year.

195 (7) Any property owner dissatisfied with the decision of the county board of
196 equalization regarding any reduction or exemption may appeal to the commission under
197 Section 59-2-1006.

198 (8) Notwithstanding Subsection (3)(a), a county board of equalization may not require
199 an owner of property to file an application in accordance with this section in order to claim an
200 exemption for the property under the following:

201 (a) Subsections 59-2-1101(3)(a)(i) through (iii);

202 (b) Subsection 59-2-1101(3)(a)(vi) or [~~vii~~] (viii);

203 (c) Section 59-2-1110;

204 (d) Section 59-2-1111;

205 (e) Section 59-2-1112;

206 (f) Section 59-2-1113; or

207 (g) Section 59-2-1114.

208 (9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in
209 Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with
210 Subsection (10), require an owner of that property to file an application in accordance with this
211 section in order to claim an exemption for that property.

212 (b) Notwithstanding Subsection (9)(a), a county board of equalization may not require
213 an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application

214 under Subsection (9)(a) if:

215 (i) (A) the owner filed an application under Subsection (9)(a); or

216 (B) the county board of equalization waived the application requirements in accordance
217 with Subsection (3)(b);

218 (ii) the county board of equalization determines that the owner may claim an
219 exemption for that property; and

220 (iii) the exemption described in Subsection (9)(b)(ii) is in effect.

221 (c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is
222 granted an exemption in accordance with this section for property described in Subsection
223 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an
224 annual statement on a form prescribed by the commission establishing that the property
225 continues to be eligible for the exemption.

226 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
227 commission shall make rules providing:

228 (A) the form for the annual statement required by Subsection (9)(c)(i);

229 (B) the contents of the form for the annual statement required by Subsection (9)(c)(i);

230 and

231 (C) procedures and requirements for making the annual statement required by
232 Subsection (9)(c)(i).

233 (iii) The commission shall make the form described in Subsection (9)(c)(ii)(A)
234 available to counties.

235 (10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined
236 in Section 59-2-1101.

237 (b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections
238 (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an
239 exclusive use exemption, that person may apply for the exclusive use exemption on or before
240 the later of:

241 (A) the day set by rule as the deadline for filing a property tax exemption application;

242 or

243 (B) 30 days after the day on which the property is acquired.

244 (ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after

245 January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may
246 apply for the exclusive use exemption for the 2004 calendar year on or before September 30,
247 2005.

248 (iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after
249 January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may
250 apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

251 (A) September 30, 2005; or

252 (B) 30 days after the day on which the property is acquired.

253 (11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed
254 under Subsection (10), a county board of equalization shall send a copy of the decision
255 described in Subsection (1)(c) to the person applying for the exemption on or before the later
256 of:

257 (i) May 15; or

258 (ii) 45 days after the day on which the application for the exemption is filed.

259 (b) Notwithstanding Subsection (6), if an application for an exemption is filed under
260 Subsection (10), a county board of equalization shall hold the hearing and render the decision
261 described in Subsection (6) on or before the later of:

262 (i) May 1; or

263 (ii) 30 days after the day on which the application for the exemption is filed.

Legislative Review Note
as of 2-5-15 2:04 PM

Office of Legislative Research and General Counsel