

SB0165S01 compared with SB0165

~~deleted text~~ shows text that was in SB0165 but was deleted in SB0165S01.

inserted text shows text that was not in SB0165 but was inserted into SB0165S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

PROPERTY TAX VALUATION AND ASSESSMENT

MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to property assessed by the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Tax Commission to consult with a county during the valuation process;
- ▶ addresses provisions related to objections that are required to be contained in certain property tax notices;
- ▶ addresses objections to a property tax assessment with respect to property assessed by the State Tax Commission;

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- ▶ requires a study by the Revenue and Taxation Interim Committee and provides a repeal date for the study;
- ▶ repeals obsolete language; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-201, as last amended by Laws of Utah 2009, Chapters 226 and 235

59-2-802, as last amended by Laws of Utah 1997, Chapter 309

59-2-803, as last amended by Laws of Utah 1997, Chapter 309

59-2-1007, as last amended by Laws of Utah 2008, Chapter 382

~~{631-1-259}~~631-2-259, as last amended by Laws of Utah 2014, Chapter ~~{54}~~256

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

Section 1. Section **59-2-201** is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property -- Notification of assessment -- Local assessment of property assessed by the unitary method -- Commission may consult with county.

(1) (a) By May 1 of each year the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, Deferrals, and Abatements, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

- (i) except as provided in Subsection (2), all property which operates as a unit across county lines, if the values must be apportioned among more than one county or state;
- (ii) all property of public utilities;
- (iii) all operating property of an airline, air charter service, and air contract service;
- (iv) all geothermal fluids and geothermal resources;
- (v) all mines and mining claims except in cases, as determined by the commission,

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where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters which are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) (i) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:

- (A) used by the air charter service for air charter; and
- (B) owned by a person other than the air charter service.

(ii) For purposes of this Subsection (1)(b):

(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and

(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:

- (I) a principal, owner, or member of the air charter service; or
- (II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.

(2) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

(a) The commission shall assess and collect property tax annually on state-assessed commercial vehicles which are registered pursuant to Section 41-1a-222 or 41-1a-228.

(b) State-assessed commercial vehicles brought into the state which are required to be registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

(c) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

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(d) The commission shall adjust the value of state-assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property. The rate of capitalization applicable to mines shall be determined by the commission, consistent with a fair rate of return expected by an investor in light of that industry's current market, financial, and economic conditions. In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4) Immediately following the assessment, the owner or operator of the assessed property shall be notified of the assessment by certified mail. The assessor of the county in which the property is located shall also be immediately notified of the assessment by certified mail.

(5) The commission may consult with a county in valuing property in accordance with this part.

~~[(5)]~~ (6) Property assessed by the unitary method, which is not necessary to the conduct and does not contribute to the income of the business as determined by the commission, shall be assessed separately by the local county assessor.

~~[(6)(a) Except as provided in Subsection (6)(b), for calendar years beginning on or after January 1, 2009 and ending on or before December 31, 2010, the method for determining the fair market value of an aircraft, aircraft type, or mobile flight equipment assessed under this part is equal to:]~~

~~[(i) the value referenced in the Used Price for Avg Acft Wholesale column of the Airliner Price Guide by make, model, series, and year of manufacture; minus]~~

~~[(ii) 20% of the value described in Subsection (6)(a)(i).]~~

~~[(b) Notwithstanding Subsection (6)(a), for calendar years beginning on or after January 1, 2009 and ending on or before December 1, 2010, the method for determining the~~

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~~fair market value of an aircraft not listed in the Airliner Price Guide is equal to:]~~

~~[(i) the value references in the Average Wholesale column of the Aircraft Bluebook Price Digest by make, model, series, and year of manufacture; minus]~~

~~[(ii) 20% of the value described in Subsection (6)(b)(i).]~~

Section 2. Section **59-2-802** is amended to read:

59-2-802. Statement of commission transmitted to county auditors -- Contents of statement -- Duties of auditors -- Change of assessment prohibited.

(1) The commission shall, before June 8, annually transmit to the county auditor of each county to which an apportionment has been made a statement showing:

- (a) the property assessed;
- (b) the value of the property, as fixed and apportioned to the tax areas; and
- (c) the aggregate amount of taxable value placed in dispute ~~[by property owners within the county pursuant to]~~ in accordance with Section 59-2-1007.

(2) The county auditor shall enter the:

- (a) statement on the county assessment roll or book; and
- (b) amount of the assessment apportioned to the county in the column of the assessment book or roll which shows for the county the total taxable value of all property.

(3) A county board of equalization may not change any assessment fixed by the commission.

Section 3. Section **59-2-803** is amended to read:

59-2-803. Statement transmitted by county auditors to governing bodies -- Contents of statement.

(1) The county auditor shall transmit to the governing bodies of taxing entities in which the property is located, or to which any of the value is apportioned, a statement of the valuation of all property as fixed and apportioned by the commission and reported under Section 59-2-802.

(2) The statement under Subsection (1) shall contain the aggregate amount of taxable value placed in dispute ~~[by property owners within the county pursuant to]~~ in accordance with Section 59-2-1007.

(3) The statement shall be transmitted at the same time and in the same manner as the statement is transmitted under Section 59-2-924.

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Section 4. Section 59-2-1007 is amended to read:

59-2-1007. Objection to assessment by commission -- Application -- Contents of application -- Amending an application -- Hearings -- Appeals.

(1) (a) ~~If~~ Subject to the other provisions of this section, if the owner of ~~[any]~~ property assessed by the commission ~~[, or any county upon a showing of reasonable cause,]~~ objects to the assessment, the owner ~~[or the county may,]~~ may apply to the commission for a hearing on the objection on or before the later of:

(i) June 1; or [a day within]

(ii) 30 days [of] after the date the commission mails the notice of assessment[is mailed by the commission pursuant to] in accordance with Section 59-2-201[, apply to the commission for a hearing].

(b) The commission shall allow ~~[the following]~~ an owner that meets the requirements of Subsection (1)(a) to be a party at a hearing under this section[?].

~~[(i) the owner, and]~~

~~[(ii) the county upon a showing of reasonable cause.]~~

(2) ~~{A}~~ Subject to the other provisions of this section, a county that objects to the assessment of property assessed by the commission may apply to the commission for a hearing on the objection:

(a) for an assessment with respect to which the owner has applied to the commission for a hearing on the objection under Subsection (1), if the county applies to the commission to become a party to the hearing on the objection no later than 30 days after the date the owner applied to the commission for the hearing on the objection; or

(b) for an assessment with respect to which the owner has not applied to the commission for a hearing on the objection under Subsection (1), if the county:

(i) reasonably believes that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:

(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or

(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and

(ii) applies to the commission for a hearing on the objection no later than 30 days after

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the last day on which the owner could have applied to the commission for a hearing on the objection under Subsection (1).

(3) Before a county may apply to the commission for a hearing under this section on an objection to an assessment, a majority of the members of the county legislative body shall approve filing an application under this section.

~~(3)4~~ (a) The commission shall allow a county that meets the requirements of ~~Subsection~~ Subsections (2) and (3) to be a party at a hearing under this section.

(b) The commission shall allow an owner to be a party at a hearing under this section on an objection to an assessment a county files in accordance with Subsection (2)(b).

~~(2) The~~ ~~(4)5~~ An owner or a county shall include in ~~the~~ an application under ~~Subsection (1)(a)]~~ this section:

(a) a written statement;

(i) setting forth the known facts and legal basis supporting a different fair market value than the value assessed by the commission; and

(ii) for an assessment described in Subsection (2)(b), establishing the county's reasonable belief that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:

(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or

(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and

(b) the owner's or county's estimate of the fair market value of the property.

~~(3)~~ ~~(5)6~~ (a) ~~An~~ Except as provided in Subsection (5)6(b), an owner's or a county's estimate on an application under ~~Subsection (2)]~~ this section of the fair market value of the property may be amended prior to the hearing as provided by rule.

(b) A county may not amend the fair market value of property under this Subsection (5)6 to equal an amount that is less than the lesser of:

(i) the value at which the commission is assessing the property for the current calendar year plus 50%; or

(ii) the value at which the commission assessed the property for the prior calendar year plus 50%.

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~~[(b)]~~ ~~(c)~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the procedures for amending an estimate of fair market value under this Subsection ~~[(3)(a)]~~ ~~(5)(6)~~.

~~(6)(7)~~ In applying to the commission for a hearing on an objection under ~~Subsection~~ ~~(2)~~ this section:

(a) a county may estimate the fair market value of the property using a valuation methodology the county considers to be appropriate, regardless of:

(i) the valuation methodology used previously in valuing the property; or

(ii) the valuation methodology an owner asserts; and

(b) an owner may estimate the fair market value of the property using a valuation methodology the owner considers to be appropriate, regardless of:

(i) the valuation methodology used previously in valuing the property; or

(ii) the valuation methodology a county asserts.

~~[(4)]~~ ~~(7)(8)~~ (a) An owner ~~[applying]~~ who applies to the commission for a hearing in accordance with Subsection (1) shall, for the property for which the owner objects to the commission's assessment, file a copy of the application with the county auditor of each county in which the property is located.

(b) A county auditor ~~[receiving]~~ who receives a copy of an application in accordance with Subsection ~~[(4)]~~ ~~(7)(8)~~(a) shall provide a copy of the application to the county:

(i) assessor;

(ii) attorney;

(iii) legislative body; and

(iv) treasurer.

~~[(5)]~~ ~~(8)(9)~~ (a) On or before August 1, the commission shall conduct a scheduling conference with all parties to a hearing under this section.

(b) At the scheduling conference under Subsection ~~[(5)]~~ ~~(8)(9)~~(a), the commission shall establish dates for:

(i) the completion of discovery;

(ii) the filing of prehearing motions; and

(iii) conducting a hearing on the objection to the assessment.

~~[(6)]~~ ~~(9)(10)~~ (a) The commission shall issue a written decision no later than 120 days

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after the later of the date:

- (i) the hearing [~~described in Subsection (5)(b)~~] under this section is completed; or
- (ii) all posthearing briefs are submitted.

(b) [~~Any applications not resolved by the commission within~~] If the commission does not issue a written decision on an objection to an assessment under this section within a two-year period [from the date of filing are] after the date an application under this section is filed, the objection is considered to be denied, unless the parties stipulate to a different time period for resolving [an application] the objection.

(c) A party may appeal to the district court [~~pursuant to~~] in accordance with Section 59-1-601 within 30 days [~~from the day on which~~] after the date an [~~application~~] objection is considered to be denied.

[(7)] (~~10~~; 11) At the hearing on [~~the application~~] an objection under this section, the commission may increase, lower, or sustain the assessment if:

- (a) the commission finds an error in the assessment; or
- (b) the commission determines that increasing, lowering, or sustaining the assessment is necessary to equalize the assessment with other similarly assessed property.

[(8)] (~~11~~; 12) (a) [(1)] The commission shall send notice of a commission action under Subsection [(7)] (~~10~~; 11) to a county auditor if:

[(A)] (i) the commission proposes to adjust an assessment [~~which was made pursuant to~~] the commission made in accordance with Section 59-2-201;

[(B)] (ii) the county's tax revenues may be affected by the commission's decision; and

[(C)] (iii) the county [~~has not already been made a party pursuant to Subsection (1)]] is not a party to the hearing under this section.~~

[(1)] (b) The written notice [~~sent by the commission under Subsection (8)(a)(i)]] described in Subsection (~~11~~; 12)(a):~~

[(A)] (i) may be transmitted by:

[(1)] (A) any form of electronic communication;

[(1)] (B) first class mail; or

[(1)] (C) private carrier; and

[(B)] (ii) shall request the county to show good cause why the commission should not adjust the assessment by requesting the county to provide to the commission a written

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statement~~[(f)]~~ setting forth the known facts and legal basis for not adjusting the assessment~~[(g)]~~ and~~[(h)]~~ within 30 days from the date of the written notice.

~~[(b)]~~ (c) If a county provides a written statement described in Subsection ~~(~~111~~12)(b)~~ to the commission ~~[a written statement in accordance with Subsection (8)(a)(ii)(B)]~~, the commission shall:

(i) hold a hearing or take other appropriate action to consider the good cause ~~[alleged by the county]~~ the county provides in the written statement; and

(ii) issue a written decision increasing, lowering, or sustaining the assessment.

~~[(e)]~~ (d) If a county does not provide ~~[to the commission]~~ a written statement ~~[in accordance with Subsection (8)(a)(ii)(B)]~~ described in Subsection ~~(~~111~~12)(b)~~ to the commission within 30 days after the commission sends the notice described in Subsection ~~[(8)]~~ (~~111~~12)(a), the commission shall adjust the assessment and send a copy of the commission's written decision to the county.

~~[(9)]~~ (~~112~~13) Subsection ~~[(8)]~~ (~~111~~12) does not limit the rights of ~~[any county as described in Subsection (1)]~~ a county as provided in Subsections (2) and ~~(~~13~~4)(a)~~.

(~~113~~14) (a) On or before the November 2018 interim meeting, the Revenue and Taxation Interim Committee shall study the process for a county to object to an assessment of property assessed by the commission.

(b) As part of the study required by Subsection ~~(~~113~~14)~~(a), the Revenue and Taxation Interim Committee shall determine whether to draft legislation to modify the process for a county to object to an assessment of property assessed by the commission.

Section 5. Section ~~{~~631-1-259~~}~~631-2-259 is amended to read:

~~{~~631-1-259~~}~~631-2-259. **Repeal dates**~~{}~~ **= Title 59.**

(1) Subsection ~~{~~59-2-924~~}~~59-2-919~~(~~3~~)(g)~~10 is repealed~~{ on }~~ December 31, ~~{2016}~~2015.

(2) ~~{~~Section 59-2-924.3~~}~~Subsection 59-2-919.1(4) is repealed~~{ on }~~ December 31, ~~{2016}~~2015.

(3) Subsection 59-2-1007(~~113~~14) is repealed on December 31, 2018.

~~{~~ ~~[(3)]~~ ~~(4)~~ Section 59-9-102.5 is repealed December 31, 2020.

~~{~~ Section 6. **Effective date.**

This bill takes effect on January 1, 2016.

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Legislative Review Note

~~as of 2-5-15 5:43 PM~~

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