

EXTRA-JURISDICTIONAL MUNICIPAL PROPERTY

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses municipal ownership of property outside the municipality's boundaries.

Highlighted Provisions:

This bill:

- ▶ limits the circumstances in which a municipality may own property outside the municipality's boundaries;
- ▶ creates an exception to the property tax exemption for property that a municipality owns; and
- ▶ authorizes a municipality to levy a property tax on property that another municipality owns within the taxing municipality's boundaries.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-2, as last amended by Laws of Utah 2014, Chapter 59

59-2-1101, as last amended by Laws of Utah 2015, Chapters 129 and 261



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

29 Section 1. Section **10-8-2** is amended to read:

30 **10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal**
31 **authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**

32 (1) (a) A municipal legislative body may:

33 (i) appropriate money for corporate purposes only;

34 (ii) provide for payment of debts and expenses of the corporation;

35 (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and
36 dispose of real and personal property for the benefit of the municipality, [~~whether the property~~
37 ~~is within or without the municipality's corporate boundaries;~~] if the action is in the public
38 interest and complies with other law[;]:

39 (A) within the municipality's corporate boundaries; or

40 (B) if the municipal legislative body makes a finding in a public hearing that no land
41 within the municipality's corporate boundaries exists that is reasonably suitable to address a
42 compelling interest related to health, safety, or welfare within the municipality, outside the
43 municipality's corporate boundaries to address the compelling interest;

44 (iv) improve, protect, and do any other thing in relation to [~~this~~] the property described
45 in Subsection (1)(a)(iii) that an individual could do; and

46 (v) subject to Subsection (2) and after first holding a public hearing, authorize
47 municipal services or other nonmonetary assistance to be provided to or waive fees required to
48 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

49 (b) A municipality may:

50 (i) furnish all necessary local public services within the municipality;

51 (ii) purchase, hire, construct, own, maintain [~~and~~], operate, or lease public utilities
52 located and operating within and operated by the municipality; and

53 (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property
54 [~~located inside or outside the corporate limits of the municipality and~~] necessary for any of the
55 purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B,
56 Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities[-],
57 if the property is located:

58 (A) within the municipality's corporate boundaries; or

59 (B) if the municipal legislative body makes a finding in a public hearing that no land
60 within the municipality's corporate boundaries exists that is reasonably suitable to address a
61 compelling interest related to health, safety, or welfare within the municipality, outside the
62 municipality's corporate boundaries to address the compelling interest.

63 (c) Each municipality that intends to acquire property by eminent domain under
64 Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

65 (d) [~~Subsection (1)(b) may not be construed to~~] Except as provided in Subsection
66 (1)(b)(iii)(B), Subsection (1)(b) does not diminish any other authority a municipality [may
67 claim to have] has under the law to acquire by eminent domain property located inside or
68 outside the municipality.

69 (2) (a) Services or assistance provided [~~pursuant to~~] under Subsection (1)(a)(v) is not
70 subject to the provisions of Subsection (3).

71 (b) The total amount of services or other nonmonetary assistance provided or fees
72 waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the
73 municipality's budget for that fiscal year.

74 (3) It is considered a corporate purpose to appropriate money for any purpose that, in
75 the judgment of the municipal legislative body, provides for the safety, health, prosperity,
76 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality
77 subject to the following:

78 (a) The net value received for any money appropriated [~~shall be~~] is measured on a
79 project-by-project basis over the life of the project.

80 [~~(b) The criteria for a determination under this Subsection (3) shall be established by~~
81 ~~the municipality's legislative body. A determination of value received, made by the~~
82 ~~municipality's legislative body, shall be presumed valid unless it can be shown that the~~
83 ~~determination was arbitrary, capricious, or illegal.~~]

84 (b) (i) The municipal legislative body shall establish the criteria for a determination
85 under this Subsection (3).

86 (ii) The municipal legislative body's determination of value received is presumed valid
87 unless the determination was arbitrary, capricious, or illegal.

88 (c) The municipality may consider intangible benefits received by the municipality in
89 determining net value received.

90 (d) (i) ~~[Prior to]~~ Before the municipal legislative body ~~[making any decision]~~ decides
91 to appropriate any funds for a corporate purpose under this section, ~~[a public hearing shall be~~
92 ~~held]~~ the municipal legislative body shall hold a public hearing.

93 (ii) ~~[Notice]~~ The municipal legislative body shall publish notice of the hearing
94 described in Subsection (3)(d)(i) ~~[shall be published]:~~

95 (A) ~~[(H)]~~ in a newspaper of general circulation at least 14 days before the date of the
96 hearing~~;~~ ~~or (H)]~~, or if there is no newspaper of general circulation, ~~[by posting notice]~~ in at
97 least three conspicuous places within the municipality for the same time period; and

98 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), at least 14 days
99 before the date of the hearing.

100 (e) (i) ~~[A study shall be performed before]~~ The municipal legislative body shall prepare
101 a study before giving notice of the public hearing ~~[is given and shall be made]~~ described in
102 Subsection (3)(d)(i) and make the study available at the municipality for review by interested
103 parties at least 14 days immediately ~~[prior to]~~ before the public hearing, setting forth an
104 analysis and demonstrating the purpose for the appropriation.

105 (ii) In making the study, the municipal legislative body shall consider the following
106 factors ~~[shall be considered]:~~

107 ~~[(i)]~~ (A) ~~[what]~~ the identified benefit the municipality will receive in return for any
108 money or resources appropriated;

109 ~~[(ii)]~~ (B) the municipality's purpose for the appropriation, including an analysis of the
110 way the appropriation will be used to enhance the safety, health, prosperity, moral well-being,
111 peace, order, comfort, or convenience of the inhabitants of the municipality; and

112 ~~[(iii)]~~ (C) whether the appropriation is necessary and appropriate to accomplish the
113 reasonable goals and objectives of the municipality in the area of economic development, job
114 creation, affordable housing, blight elimination, job preservation, the preservation of historic
115 structures and property, and any other public purpose.

116 (f) (i) ~~[An appeal may be taken from]~~ An individual may appeal a final decision of the
117 municipal legislative body~~;~~ to make an appropriation.

118 (ii) ~~[The appeal shall be filed]~~ An individual shall file the appeal described in
119 Subsection (3)(f)(i) in the district court within 30 days after the date of ~~[that decision, to the~~
120 ~~district court]~~ the decision described in Subsection (3)(f)(i).

121 (iii) Any appeal [~~shall be~~] is based on the record of the proceedings before the
122 municipal legislative body.

123 (iv) [~~A decision of the municipal legislative body shall be presumed to be~~] The court
124 hearing the appeal shall presume that a decision of the municipal legislative body under this
125 section is valid unless the appealing party shows that the decision was arbitrary, capricious, or
126 illegal.

127 (g) The provisions of this Subsection (3) apply only to [~~those~~] appropriations [~~made~~] a
128 municipality makes after May 6, 2002.

129 (h) This section applies only to appropriations not otherwise approved [~~pursuant to~~]
130 under Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter
131 6, Uniform Fiscal Procedures Act for Utah Cities.

132 (4) (a) Before a municipality may dispose of a significant parcel of real property, the
133 municipality shall:

134 (i) provide reasonable notice of the proposed disposition at least 14 days before the
135 opportunity for public comment under Subsection (4)(a)(ii); and

136 (ii) allow an opportunity for public comment on the proposed disposition.

137 (b) Each municipality shall, by ordinance, define what constitutes:

138 (i) a significant parcel of real property for purposes of Subsection (4)(a); and

139 (ii) reasonable notice for purposes of Subsection (4)(a)(i).

140 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire
141 real property for the purpose of expanding the municipality's infrastructure or other facilities
142 used for providing services that the municipality offers or intends to offer shall provide written
143 notice, as provided in this Subsection (5), of [~~its~~] the municipality's intent to acquire the
144 property if:

145 (i) the property is located:

146 (A) outside the boundaries of the municipality; and

147 (B) in a county of the first or second class; and

148 (ii) the intended use of the property is contrary to:

149 (A) the anticipated use of the property under the general plan of the county in whose
150 unincorporated area or the municipality in whose boundaries the property is located; or

151 (B) the property's current zoning designation.

152 (b) ~~[Each]~~ The municipal legislative body shall:
 153 (i) ensure that each notice under Subsection (5)(a) [shall]:
 154 ~~[(i)]~~ (A) ~~[indicate]~~ indicates that the municipality intends to acquire real property;
 155 ~~[(ii)]~~ (B) ~~[identify]~~ identifies the real property; and
 156 (C) includes the findings the municipal legislative body makes in accordance with
 157 Subsection (1)(a)(iii)(B) or (1)(b)(iii)(B); and
 158 ~~[(iii) be sent to:]~~
 159 (ii) send the notice to:
 160 (A) each county ~~[in whose]~~ with unincorporated area within which the property is
 161 located and each municipality ~~[in whose]~~ with boundaries within which the property is located;
 162 and
 163 (B) each affected entity.
 164 (c) A notice under this Subsection (5) is a protected record as provided in Subsection
 165 [63G-2-305\(8\)](#).

166 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality
 167 previously provided notice under Section [10-9a-203](#) identifying the general location within the
 168 municipality or unincorporated part of the county where the property to be acquired is located.

169 (ii) If a municipality is not required to comply with the notice requirement of
 170 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide
 171 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real
 172 property.

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

174 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
 175 **for certain property -- County legislative body authority to adopt rules or ordinances.**

176 (1) As used in this section:

177 (a) "Educational purposes" includes:

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

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

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

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

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

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

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

191 and

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

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

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

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

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

201 Subsection (3)(a)(i), (ii), or (iii); or

202 (ii) pursuant to Subsection (3)(a)(iv):

203 (A) the claimant is a nonprofit entity; and

204 (B) the property is used exclusively for religious, charitable, or educational purposes.

205 (c) Subsection (2)(a) does not apply to an exemption under Section [59-2-1104](#).

206 (3) (a) The following property is exempt from taxation:

207 (i) property exempt under the laws of the United States;

208 (ii) property of:

209 (A) the state;

210 (B) school districts; and

211 (C) public libraries;

212 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, or

213 Subsection (3)(c), property of:

- 214 (A) counties;
- 215 (B) cities;
- 216 (C) towns;
- 217 (D) local districts;
- 218 (E) special service districts; and
- 219 (F) all other political subdivisions of the state;
- 220 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or
- 221 educational purposes;
- 222 (v) places of burial not held or used for private or corporate benefit;
- 223 (vi) farm machinery and equipment;
- 224 (vii) a high tunnel, as defined in Section 10-9a-525;
- 225 (viii) intangible property; and
- 226 (ix) the ownership interest of an out-of-state public agency, as defined in Section
- 227 11-13-103:
- 228 (A) if that ownership interest is in property providing additional project capacity, as
- 229 defined in Section 11-13-103; and
- 230 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 231 11-13-302.
- 232 (b) For purposes of a property tax exemption for property of school districts under
- 233 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 234 Schools Act, is considered to be a school district.
- 235 (c) Notwithstanding Subsection (3)(a)(iii):
- 236 (i) the property of a city or town that is located outside of the geographic boundaries of
- 237 the city or town is not exempt from a property tax that the city or town in which the property is
- 238 located levies; and
- 239 (ii) a city or town may levy a property tax on property that another city or town owns
- 240 within the geographic boundaries of the taxing city or town.
- 241 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
- 242 a government exemption ceases to qualify for the exemption because of a change in the
- 243 ownership of the property:
- 244 (a) the new owner of the property shall pay a proportional tax based upon the period of

245 time:

246 (i) beginning on the day that the new owner acquired the property; and

247 (ii) ending on the last day of the calendar year during which the new owner acquired
248 the property; and

249 (b) the new owner of the property and the person from whom the new owner acquires
250 the property shall notify the county assessor, in writing, of the change in ownership of the
251 property within 30 days from the day that the new owner acquires the property.

252 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
253 (4)(a):

254 (a) is subject to any exclusive use exemption or government exemption that the
255 property is entitled to under the new ownership of the property; and

256 (b) applies only to property that is acquired after December 31, 2005.

257 (6) A county legislative body may adopt rules or ordinances to:

258 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
259 provided in this part; and

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

Legislative Review Note
Office of Legislative Research and General Counsel