

Senator Lincoln Fillmore proposes the following substitute bill:

TRUTH IN TAXATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: John Knotwell

LONG TITLE

General Description:

This bill modifies public hearing requirements in the property tax code.

Highlighted Provisions:

This bill:

- ▶ requires a taxing entity to discuss a proposed tax rate increase at a public meeting held only for the purposes of discussing the budget, discussing and taking action on a tax rate increase, or both;

- ▶ prohibits ~~§~~→ **unreasonable** ←~~§~~ restriction on the number of individuals who offer public comment; and

- ▶ prohibits a taxing entity from holding a public hearing to discuss a proposed tax rate increase on the same date as another public meeting, other than a budget hearing, of the taxing entity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-919, as last amended by Laws of Utah 2018, Chapters 68 and 415



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

Section 1. Section **59-2-919** is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases --

Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section [59-2-924](#); or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section [17-52a-203](#).

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar

57 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax
58 rate if the calendar year taxing entity:

59 (i) 14 or more days before the date of the regular general election or municipal general
60 election held in the current calendar year, states at a public meeting:

61 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the
62 calendar year taxing entity's certified tax rate;

63 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would
64 be generated by the proposed increase in the certified tax rate; and

65 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity
66 based on the proposed increase described in Subsection (3)(a)(i)(B);

67 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in
68 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a
69 separate item on the meeting agenda that notifies the public that the calendar year taxing entity
70 intends to make the statement described in Subsection (3)(a)(i);

71 (iii) meets the advertisement requirements of Subsections (6) and (7) before the
72 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

73 (iv) provides notice by mail:

74 (A) seven or more days before the regular general election or municipal general
75 election held in the current calendar year; and

76 (B) as provided in Subsection (3)(c); and

77 (v) conducts a public hearing that is held:

78 (A) in accordance with Subsections (8) and (9); and

79 (B) in conjunction with the public hearing required by Section [17-36-13](#) or [17B-1-610](#).

80 (b) (i) For a county executive calendar year taxing entity, the statement described in
81 Subsection (3)(a)(i) shall be made by the:

82 (A) county council;

83 (B) county executive; or

84 (C) both the county council and county executive.

85 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
86 county council states a dollar amount of additional ad valorem tax revenue that is greater than
87 the amount of additional ad valorem tax revenue previously stated by the county executive in

88 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

89 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the
90 county executive calendar year taxing entity conducts the public hearing under Subsection
91 (3)(a)(v); and

92 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the
93 county executive calendar year taxing entity conducts the public hearing required by
94 Subsection (3)(a)(v).

95 (c) The notice described in Subsection (3)(a)(iv):

96 (i) shall be mailed to each owner of property:

97 (A) within the calendar year taxing entity; and

98 (B) listed on the assessment roll;

99 (ii) shall be printed on a separate form that:

100 (A) is developed by the commission;

101 (B) states at the top of the form, in bold upper-case type no smaller than 18 point

102 "NOTICE OF PROPOSED TAX INCREASE"; and

103 (C) may be mailed with the notice required by Section [59-2-1317](#);

104 (iii) shall contain for each property described in Subsection (3)(c)(i):

105 (A) the value of the property for the current calendar year;

106 (B) the tax on the property for the current calendar year; and

107 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year
108 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax
109 rate, the estimated tax on the property;

110 (iv) shall contain the following statement:

111 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar
112 year]. This notice contains estimates of the tax on your property and the proposed tax increase
113 on your property as a result of this tax increase. These estimates are calculated on the basis of
114 [insert previous applicable calendar year] data. The actual tax on your property and proposed
115 tax increase on your property may vary from this estimate.";

116 (v) shall state the date, time, and place of the public hearing described in Subsection
117 (3)(a)(v); and

118 (vi) may contain other property tax information approved by the commission.

119 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall
120 calculate the estimated tax on property on the basis of:

- 121 (i) data for the current calendar year; and
- 122 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
123 section.

124 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate
125 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

- 126 (a) provides notice by meeting the advertisement requirements of Subsections (6) and
127 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year
128 taxing entity's annual budget is adopted; and

- 129 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the
130 fiscal year taxing entity's annual budget is adopted.

131 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements
132 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with
133 the requirements of this section.

134 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or
135 (4) if:

136 (i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that
137 certified tax rate without having to comply with the notice provisions of this section; or

138 (ii) the taxing entity:

139 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;
140 and

141 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
142 revenues.

143 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this
144 section shall be published:

145 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of
146 general circulation in the taxing entity;

147 (ii) electronically in accordance with Section 45-1-101; and

148 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

149 (b) The advertisement described in Subsection (6)(a)(i) shall:

- 150 (i) be no less than 1/4 page in size;
- 151 (ii) use type no smaller than 18 point; and
- 152 (iii) be surrounded by a 1/4-inch border.
- 153 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that
- 154 portion of the newspaper where legal notices and classified advertisements appear.
- 155 (d) It is the intent of the Legislature that:
- 156 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a
- 157 newspaper that is published at least one day per week; and
- 158 (ii) the newspaper or combination of newspapers selected:
- 159 (A) be of general interest and readership in the taxing entity; and
- 160 (B) not be of limited subject matter.
- 161 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:
- 162 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks
- 163 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);
- 164 and
- 165 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
- 166 advertisement, which shall be seven or more days after the day the first advertisement is
- 167 published, for the purpose of hearing comments regarding any proposed increase and to explain
- 168 the reasons for the proposed increase.
- 169 (ii) The advertisement described in Subsection (6)(a)(ii) shall:
- 170 (A) be published two weeks before a taxing entity conducts a public hearing described
- 171 in Subsection (3)(a)(v) or (4)(b); and
- 172 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
- 173 advertisement, which shall be seven or more days after the day the first advertisement is
- 174 published, for the purpose of hearing comments regarding any proposed increase and to explain
- 175 the reasons for the proposed increase.
- 176 (f) If a fiscal year taxing entity's public hearing information is published by the county
- 177 auditor in accordance with Section [59-2-919.2](#), the fiscal year taxing entity is not subject to the
- 178 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
- 179 the advertisement once during the week before the fiscal year taxing entity conducts a public
- 180 hearing at which the taxing entity's annual budget is discussed.

181 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an
182 advertisement shall be substantially as follows:

183 "NOTICE OF PROPOSED TAX INCREASE
184 (NAME OF TAXING ENTITY)

185 The (name of the taxing entity) is proposing to increase its property tax revenue.

186 ● The (name of the taxing entity) tax on a (insert the average value of a residence
187 in the taxing entity rounded to the nearest thousand dollars) residence would
188 increase from \$ _____ to \$ _____, which is \$ _____ per year.

189 ● The (name of the taxing entity) tax on a (insert the value of a business having
190 the same value as the average value of a residence in the taxing entity) business
191 would increase from \$ _____ to \$ _____, which is \$ _____ per year.

192 ● If the proposed budget is approved, (name of the taxing entity) would increase
193 its property tax budgeted revenue by ___% above last year's property tax
194 budgeted revenue excluding eligible new growth.

195 All concerned citizens are invited to a public hearing on the tax increase.

196 PUBLIC HEARING

197 Date/Time: (date) (time)

198 Location: (name of meeting place and address of meeting place)

199 To obtain more information regarding the tax increase, citizens may contact the (name
200 of the taxing entity) at (phone number of taxing entity)."

201 (7) The commission:

202 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
203 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by
204 two or more taxing entities; and

205 (b) subject to Section 45-1-101, may authorize:

206 (i) the use of a weekly newspaper:

207 (A) in a county having both daily and weekly newspapers if the weekly newspaper
208 would provide equal or greater notice to the taxpayer; and

209 (B) if the county petitions the commission for the use of the weekly newspaper; or

210 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer
211 if:

212 (A) the cost of the advertisement would cause undue hardship;

213 (B) the direct notice is different and separate from that provided for in Section

214 59-2-919.1; and

215 (C) the taxing entity petitions the commission for the use of a commission approved

216 direct notice.

217 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county
218 legislative body in which the fiscal year taxing entity is located of the date, time, and place of
219 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

220 (B) A county that receives notice from a fiscal year taxing entity under Subsection
221 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place
222 of the public hearing described in Subsection (8)(a)(i)(A).

223 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar
224 year, notify the county legislative body in which the calendar year taxing entity is located of the
225 date, time, and place of the first public hearing at which the calendar year taxing entity's annual
226 budget will be discussed.

227 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

228 (A) open to the public; and

229 (B) held at a meeting of the taxing entity with no items on the agenda other than the
230 taxing entity's budget, a discussion and action on the taxing entity's intent to levy a tax rate that
231 exceeds the taxing entity's certified tax rate, or both.

232 (ii) The governing body of a taxing entity conducting a public hearing described in
233 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an
234 opportunity to present oral testimony:

235 (A) within reasonable time limits; and

236 (B) without ~~§~~ → **unreasonable** ← ~~§~~ restriction on the number of individuals allowed to
236a make public comment.

237 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a
238 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
239 of another overlapping taxing entity in the same county.

240 (ii) The taxing entities in which the power to set tax levies is vested in the same
241 governing board or authority may consolidate the public hearings described in Subsection
242 (3)(a)(v) or (4)(b) into one public hearing.

243 (d) A county legislative body shall resolve any conflict in public hearing dates and
244 times after consultation with each affected taxing entity.

245 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or
246 (4)(b) beginning at or after 6 p.m.

247 (f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the
248 public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public
249 meeting of the taxing entity.

250 (ii) A taxing entity may hold a budget hearing on the same date as a public hearing
251 described in Subsection (3)(a)(v) or (4)(b).

252 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad
253 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing
254 entity shall announce at that public hearing the scheduled time and place of the next public
255 meeting at which the taxing entity will consider budgeting the additional ad valorem tax
256 revenue.

257 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount
258 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem
259 tax revenue stated at a public meeting under Subsection (3)(a)(i).

260 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's
261 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed
262 annual budget.