

Senator Lincoln Fillmore proposes the following substitute bill:

TRUTH IN TAXATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Robert M. Spendlove

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;
- ▶ 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; and
- ▶ creates an exception to the prohibition against holding a meeting on a proposed tax rate increase on the same date as another public hearing for a taxing entity with a certain distance between the public meeting and the taxing entity's boundaries.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **59-2-919**, as last amended by Laws of Utah 2018, Chapters 68 and 415



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

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

33 **59-2-919. Notice and public hearing requirements for certain tax increases --**

34 **Exceptions.**

35 (1) As used in this section:

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

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

40 (i) eligible new growth as defined in Section **59-2-924**; or

41 (ii) personal property that is:

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

43 (B) semiconductor manufacturing equipment.

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

46 (d) "County executive calendar year taxing entity" means a calendar year taxing entity
47 that operates under the county executive-council form of government described in Section
48 **17-52a-203**.

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

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

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

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

57 rate unless the taxing entity meets:

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

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

60 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar
61 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax
62 rate if the calendar year taxing entity:

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

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

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

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

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

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

77 (iv) provides notice by mail:

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

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

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

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

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

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

86 (A) county council;

87 (B) county executive; or

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

89 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
90 county council states a dollar amount of additional ad valorem tax revenue that is greater than
91 the amount of additional ad valorem tax revenue previously stated by the county executive in
92 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

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

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

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

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

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

102 (B) listed on the assessment roll;

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

104 (A) is developed by the commission;

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

106 "NOTICE OF PROPOSED TAX INCREASE"; and

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

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

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

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

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

114 (iv) shall contain the following statement:

115 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar
116 year]. This notice contains estimates of the tax on your property and the proposed tax increase
117 on your property as a result of this tax increase. These estimates are calculated on the basis of
118 [insert previous applicable calendar year] data. The actual tax on your property and proposed

119 tax increase on your property may vary from this estimate.";

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

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

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

125 (i) data for the current calendar year; and

126 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
127 section.

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

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

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

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

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

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

142 (ii) the taxing entity:

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

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

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

149 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of

150 general circulation in the taxing entity;

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

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

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

154 (i) be no less than 1/4 page in size;

155 (ii) use type no smaller than 18 point; and

156 (iii) be surrounded by a 1/4-inch border.

157 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that

158 portion of the newspaper where legal notices and classified advertisements appear.

159 (d) It is the intent of the Legislature that:

160 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a

161 newspaper that is published at least one day per week; and

162 (ii) the newspaper or combination of newspapers selected:

163 (A) be of general interest and readership in the taxing entity; and

164 (B) not be of limited subject matter.

165 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

166 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks

167 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);

168 and

169 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the

170 advertisement, which shall be seven or more days after the day the first advertisement is

171 published, for the purpose of hearing comments regarding any proposed increase and to explain

172 the reasons for the proposed increase.

173 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

174 (A) be published two weeks before a taxing entity conducts a public hearing described

175 in Subsection (3)(a)(v) or (4)(b); and

176 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the

177 advertisement, which shall be seven or more days after the day the first advertisement is

178 published, for the purpose of hearing comments regarding any proposed increase and to explain

179 the reasons for the proposed increase.

180 (f) If a fiscal year taxing entity's public hearing information is published by the county

181 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the
182 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
183 the advertisement once during the week before the fiscal year taxing entity conducts a public
184 hearing at which the taxing entity's annual budget is discussed.

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

187 "NOTICE OF PROPOSED TAX INCREASE
188 (NAME OF TAXING ENTITY)

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

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

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

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

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

200 PUBLIC HEARING

201 Date/Time: (date) (time)

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

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

205 (7) The commission:

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

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

210 (i) the use of a weekly newspaper:

211 (A) in a county having both daily and weekly newspapers if the weekly newspaper

212 would provide equal or greater notice to the taxpayer; and

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

214 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer

215 if:

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

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

218 59-2-919.1; and

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

220 direct notice.

221 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county

222 legislative body in which the fiscal year taxing entity is located of the date, time, and place of

223 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

224 (B) A county that receives notice from a fiscal year taxing entity under Subsection

225 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place

226 of the public hearing described in Subsection (8)(a)(i)(A).

227 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar

228 year, notify the county legislative body in which the calendar year taxing entity is located of the

229 date, time, and place of the first public hearing at which the calendar year taxing entity's annual

230 budget will be discussed.

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

232 (A) open to the public; and

233 (B) held at a meeting of the taxing entity with no items on the agenda other than the

234 taxing entity's budget, a discussion and action on the taxing entity's intent to levy a tax rate that

235 exceeds the taxing entity's certified tax rate, or both.

236 (ii) The governing body of a taxing entity conducting a public hearing described in

237 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an

238 opportunity to present oral testimony:

239 (A) within reasonable time limits; and

240 (B) without unreasonable restriction on the number of individuals allowed to make

241 public comment.

242 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a

243 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
244 of another overlapping taxing entity in the same county.

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

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

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

252 (f) (i) Except as provided in Subsections (8)(f)(ii) and (iii), a taxing entity may not hold
253 the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another
254 public meeting of the taxing entity.

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

257 (iii) If there are 50 or more miles between the location of the taxing entity's public
258 meeting and any portion of the taxing entity's boundaries, the taxing entity may hold the public
259 hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public meeting
260 of the taxing entity at which the taxing entity plans to discuss routine and regular business
261 items.

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

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

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