

## HB0288S03 compared with HB0288S02

~~text~~ shows text that was in HB0288S02 but was deleted in HB0288S03.

text shows text that was not in HB0288S02 but was inserted into HB0288S03.

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Representative Jason B. Kyle proposes the following substitute bill:

### ROLLBACK TAX AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jason B. Kyle**

Senate Sponsor: David P. Hinkins

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#### LONG TITLE

##### General Description:

This bill modifies provisions related to the rollback tax associated with agricultural and urban farming property tax assessments.

##### Highlighted Provisions:

This bill:

- ▶ excludes land acquired by certain governmental entities from the rollback tax;
- ▶ requires governmental entities exempted from the rollback tax to make a one-time in lieu fee payment before ~~conveying~~selling the land within a certain period;
- ▶ extends the due date for paying the rollback tax and the deadline for filing an appeal to the county board of equalization;
- ▶ requires the State Tax Commission to make rules allowing for an extension of the deadline for filing an appeal; and

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- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

**59-2-506**, as last amended by Laws of Utah 2023, Chapters 180, 189

**59-2-511**, as last amended by Laws of Utah 2023, Chapters 16, 180

**59-2-516**, as enacted by Laws of Utah 2017, Chapter 319

**59-2-1705**, as last amended by Laws of Utah 2023, Chapters 180, 189

**59-2-1710**, as last amended by Laws of Utah 2023, Chapters 16, 180 and 471

**59-2-1713**, as enacted by Laws of Utah 2017, Chapter 319

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

Section 1. Section **59-2-506** is amended to read:

**59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.**

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) \$10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this

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part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required

by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The county treasurer shall pay the rollback tax collected under this section as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax [~~within 30 days after the day on which the county assessor mails~~] on or before the due date listed on the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable [~~on the day~~] within 60 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

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(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax [~~within 30 days after the day on which the county assessor mails~~] on or before the due date listed on the notice [required by] described in Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

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(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

(11) (a) A portion of land withdrawn from this part is not subject to the rollback tax if the portion of land:

(i) qualifies for assessment under Part 17, Urban Farming Assessment Act; and

(ii) for the tax year immediately following withdrawal, the owner of the portion of land applies in accordance with Section 59-2-1707 for the land to be assessed under Part 17, Urban Farming Assessment Act.

(b) Any remaining portion of the withdrawn land that does not satisfy the requirements of Subsection (11)(a) is subject to the rollback tax.

Section 2. Section **59-2-511** is amended to read:

**59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.**

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

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- (ii) a city;
- (iii) a town;
- (iv) a school district;
- (v) a special district; or
- (vi) a special service district; or
- (d) an entity created by the state or the United States, including:
  - (i) an agency;
  - (ii) a board;
  - (iii) a bureau;
  - (iv) a commission;
  - (v) a committee;
  - (vi) a department;
  - (vii) a division;
  - (viii) an institution;
  - (ix) an instrumentality; or
  - (x) an office.

(2) (a) Except as provided in Subsections (3) [~~and (4)~~] through (5), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

- (A) money; or
- (B) other consideration.

(3) (a) Except as provided in [~~Subsection (4)~~] Subsections (4) and (5), land acquired by

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a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

- (i) the governmental entity acquires the land by eminent domain;
- (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and  
(B) the governmental entity provides written notice of the proceedings to the owner; or
- (iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

- (A) to the county treasurer of the county in which the land is located; and
- (B) in an amount equal to the amount of rollback tax calculated under Section

59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

- (A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

- (ii) 80% to the taxing entities in which the land is located.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

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(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) (a) This Subsection (5) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (5)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (5)(b), a governmental entity described in Subsection (5)(a) may not, within five years after the day on which the governmental entity acquires land, ~~convey~~ **sell the land** to a private entity ~~for a legal or equitable interest in the land~~ unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before ~~conveying a legal or equitable interest in~~ **selling** the land to the private entity.

~~(5)~~ (6) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 3. Section **59-2-516** is amended to read:

### **59-2-516. Appeal to the county board of equalization.**

(1) Notwithstanding Section 59-2-1004 ~~or 63G-4-301~~ and except as provided in Subsection (2), the owner of land may appeal the determination or denial of a county assessor to the county board of equalization within ~~45~~ 60 days after the day on which:

~~(1)~~ (a) the county assessor makes a determination under this part; or

~~(2)~~ (b) the county assessor's failure to make a determination results in the owner's request being considered denied under this part.

(2) Notwithstanding Subsection (1), the commission shall, in accordance with Title



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63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing circumstances under which an appeal may be filed with the county board of equalization no later than 60 days after the deadline for an appeal described in Subsection (1).

Section 4. Section **59-2-1705** is amended to read:

**59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.**

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) \$10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) except as provided in Subsection (3)(c), the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(c) For land that was previously assessed under Part 5, Farmland Assessment Act, the date described in Subsection (3)(b)(i)(A) is the date the land was first assessed under Part 5, Farmland Assessment Act, unless the land was subject to a rollback tax imposed under Section 59-2-506.

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(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The county treasurer shall pay the rollback tax collected under this section as follows:

(i) 20% to the county for use for land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax [~~within 30 days after the day on which the county assessor mails~~] on or before the due date listed on the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable [~~on the day~~] within 60 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax [~~within 30 days after the day on which the county assessor mails~~] on or before the due date listed on the notice [required by] described in Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

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(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

Section 5. Section **59-2-1710** is amended to read:

**59-2-1710. Acquisition of land by governmental entity -- Requirements --**

**Rollback tax -- One-time in lieu fee payment -- Passage of title.**

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, special district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental

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entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) [~~Land~~] Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than one acre, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired

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by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the taxing entities in which the land is located.

(4) (a) This Subsection (4) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (4)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (4)(b), a governmental entity described in Subsection (4)(a) may not, within five years after the day on which the governmental entity acquires land, ~~convey~~ **sell the land** to a private entity ~~for a legal or equitable interest in the land~~ unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before ~~conveying a legal or equitable interest in~~ **selling** the land to the private entity.

~~[(4)]~~ (5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 6. Section **59-2-1713** is amended to read:

### **59-2-1713. Appeal to the county board of equalization.**

(1) Notwithstanding Section 59-2-1004 ~~[or 63G-4-301]~~ and except as provided in Subsection (2), the owner of land may appeal the determination or denial of a county assessor to the county board of equalization within ~~[45]~~ 60 days after the day on which:

~~[(1)]~~ (a) the county assessor makes a determination under this part; or

~~[(2)]~~ (b) the county assessor's failure to make a determination results in the owner's request being considered denied under this part.

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(2) Notwithstanding Subsection (1), the commission shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing circumstances under which an appeal may be filed with the county board of equalization no later than 60 days after the deadline for an appeal described in Subsection (1).

Section 7. **Effective date.**

This bill takes effect on January 1, 2025.