

2006 Legislative Wrap-Up

A very energetic, ambitious and stressful session of the Utah State Legislature has come to a close. A grand total of 395 bills were passed by the 2006 legislature. Apparently, there will be more to come as the Governor has indicated there will be a Special Legislative Session in May to settle the final piece of the proposed tax-cut package and possibly other items. Legislation impacting property tax follows:

HB 44 Local Government Amendments Effective 05/01/06

Expands the Local Government Bonding Act to apply to independent special districts and to local districts. It adds to the Local Government Bonding Act a provision authorizing local political subdivisions to require bonds to recite that they comply with applicable law, which would make them incontestable. It requires cemetery maintenance districts issuing bonds to obtain the approval of a majority of the district voters voting at an election held for that purpose. General obligation bonds of a county service area may not be issued if the amount of the bonds, when added to the then outstanding amount of general obligation bonds of the county service area, exceeds 12% of the fair market value of the taxable property in the county service area. It adds Section 17A-2-429 indicating that property owned by a county service area is exempt from any general ad valorem tax. It adds a provision that mosquito abatement districts may not incur indebtedness exceeding in the aggregate a sum equal to .0001 per dollar of taxable value of taxable property in the district. Also, it adds a provision that the administrative control board, if one has been established, is the “governing body” of a special service district.

HB 55 Property Tax – Circuit Breaker Qualifying Limits Effective 01/01/07

Alters the age a claimant must attain prior to applying for the circuit breaker credit. If a claimant was born on or before December 31, 1942, claimant must be 65 or older. If a claimant was born on or after January 1, 1943, the claimant must be 66 years of age and on or after January 1, 1960, the claimant must be 67. Also, it increases the homeowner tax credit and the renter refund as well as revises the household income qualifying limits for both homeowners and renters. In effect, 2007 will become the new base year and the household income levels as well as the homeowner’s credit will be those identified in the revised statute.

HB 57 County Officers Amendments Effective 02/09/06

Extends the date from 2006 to 2010 by which time counties must comply with the requirement to separate county offices that are prohibited from being consolidated. Also, it authorizes counties that have already adopted an ordinance separating county offices that are prohibited from consolidation to repeal that ordinance and publish a notice in the newspaper indicating that the previous notice was incorrect and correctly identifying the county offices that will be filled in the November 2006 election.

HB 77 School District Boundaries Effective 05/01/06

Modifies procedures related to the creation of new school districts. Allows the governing body of certain cities and counties to submit for voter approval a proposal to establish a new school district. Imposes requirements for the filing and processing of petitions or

requests to create new school districts. Requires the county legislative body to make school district boundary changes when voters approve a new district. Also, it provides for the transfer of employees, property and indebtedness of affected districts consistent with procedures for other types of school district boundary changes.

HB 86 Property Tax – Refunding Tax Prepayments Effective May 1, 2006

Allows county treasurers to refund tax prepayments at any time before mailing the tax notice and allows the county legislative body to adopt rules or ordinances to implement this provision.

HB 256 Requirement of Property Tax Increase Advertisement Effective 01/01/07

Modifies the “Truth in Taxation” notification requirements for taxing entities budgeting or levying a property tax rate in excess of the certified tax rate. It changes the wording in the newspaper advertisement entitled “Notice of Proposed Tax Increase.”

HB 261 Property Tax Revisions Effective 05/01/06

Moves the calculation of property tax rates language from Section 59-2-913 to Section 59-2-924.

HB 338 Property Tax Exemption for Business Personal Property

(Effective 01/01/07 only if HJR 1 is approved by voters at November General Election)

Exempts a taxpayer’s taxable tangible personal property from personal property assessment and taxation if the total aggregate fair market value of that tangible personal property is \$3,500 or less. Beginning January 2008, the \$3,500 figure is to be increased based upon an increase in the consumer price index. USTC may make rules to administer this exemption and provide for uniform implementation. The implementation of this law is conditioned upon the passage of a constitutional amendment (HJR 1), which proposes to revise personal property tax provisions.

HB 396 Amendments to the Property Tax Exemption for Disabled Veterans

Effective **01/01/08**

Modifies the application requirements for a veteran’s exemption. If a claimant already has an application on file with the county, another application is not required unless one of the following conditions exists: (1) all or portion of the exemption to be claimed is to be applied to tangible personal property (2) the percentage of disability has changed (3) the disabled veteran dies (4) the claimant’s ownership in the primary residence changes (5) the claimant’s occupancy of the primary residence changes or (6) when there is a change in claimant for a deceased disabled veteran or veteran who was killed in action or died in the line of duty. Also, the county may verify that the residential property for which the claimant claims an exemption is the claimant’s primary residence.

HJR 1 Resolution Regarding Property Tax on Personal Property

(Effective 01/01/07 if approved by voters at the November General Election)

This resolution proposes to amend the Utah Constitution to authorize the legislature to provide a property tax exemption for tangible personal property that would generate an inconsequential amount of revenue. If this amendment is approved by a majority of those

voting on it at the next regular general election, the amendment takes effect on January 1, 2007.

SB 36 School Districts Limited Amendments to Truth in Taxation Effective 01/01/07

Exempts school districts from the “Truth in Taxation” advertisement requirements when budgeting voted leeway program revenue, if the voted leeway is approved after January 1, 2003 and within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted leeway.

SB 80 Public-Private Partnership for Tollway Facilities Effective 05/01/06

Modifies provision relating to public-private partnerships for tollway facilities. Authorizes the Department of Transportation, with the approval of the Transportation Commission, to enter into public-private partnerships for tollway facilities. Exempts from the privilege tax the possession or beneficial use of public property as a tollway by a private entity pursuant to a tollway development agreement as defined in Section 72-6-202.

SB 99 County Recorder Amendments Effective 01/01/06

Provides that the county recorder does not violate law by placing information on a document in the course of the recorder’s work. Modifies the section addressing the county recorder fees. Requires a person’s typed or printed name on a recorded document to appear just beneath the person’s signature. In order to terminate an interest in real estate of a joint tenancy, tenancy by the entirety, life estate, or determinable or conditional interest, a properly signed affidavit is required to be recorded in the county recorder’s office.

SB 100 County Officer Amendments Effective 05/01/06

(1) Expands the duties of a county assessor that may be reassigned to the treasurer; i.e., tax clearance required to move manufactured or mobile homes. (2) Persons elected to fill a vacancy in a county office are to serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified. (3) Changes the time frame for imposing a penalty for failure to appear and testify when requested by the county assessor from 30 days after the taxpayer’s receipt of a certified notice to 30 days after mailing the notice. (4) Requires the county assessor to impose a fee for certified mailing expenses associated with a notice to a property owner.

SB 107 Title to Manufactured Housing or Mobile Homes Effective 05/01/06

Modifies titling provisions for manufactured/mobile homes. Requires an owner of a manufactured/mobile home to apply to the Motor Vehicle Division for a certificate of title unless the manufactured/mobile home is registered as real property. Provides that a manufactured/mobile home that has been converted to real property is not subject to titling if the home is permanently affixed to real property, the home is not registered with the Motor Vehicle Division, the home is taxed as an improvement to real estate by the county assessor and the manufacturer’s identification number(s) are included in the deed or loan document recorded with the county recorder.

SB 111 Water Conservancy District Effective 05/01/06

Allows a water conservancy district to levy a property tax rate not to exceed .0001 before the earliest of: (1) the planning or design of the works; (2) the acquisition of the site or right-of-way on which the works will be constructed; or (3) the commencement of construction of the works. It simply modifies the language to more easily allow for the levying of property taxes, even before the above identified events occur. Allows increasing the tax rate to apply to water conservancy districts that contain land located within the Lower Colorado River Basin instead of just districts served by water apportioned by the Colorado River Compact to the Lower Basin.

SB 153 Uniform Environmental Covenants Act Effective 05/01/06

Title 19, Chapter 10, Environmental Institutional Control Act, applies to an environmental institutional control (environmental covenant), created before May 1, 2006 and this act governs an environmental covenant created on or after May 1, 2006. Sometimes it is not technically and/or economically feasible to clean up contaminated properties to acceptable health standards; in these cases, environmental covenants are placed on property to prevent people from coming in contact with contamination such as restrictions on digging on the property and restrictions on extraction of contaminated groundwater. Also, the environmental covenant notifies or warns subsequent property owners of potential problems. The purpose of this legislation is to provide cleanup companies with nationally consistent criteria for imposing environmental covenants on contaminated properties. The covenant is a document negotiated between the property owner and the Utah Department of Environmental Quality. This new act establishes procedures to develop the covenant, standards for the content of the covenant, procedures to change the covenant and provisions for enforcing the covenant.

SB 196 Revisions to Redevelopment Agency Provisions Effective 05/01/06

Provides a rather extensive overhaul of redevelopment agency law. It strengthens the definition of blight and allows municipalities to undertake three types of development and renewal projects—urban renewal, economic development and community development. Major revisions to the current RDA statute are as follows:

- (1) Changes terminology from “Redevelopment Agency” to “Community Development and Renewal Agencies (CDRA), and changes the term “redevelopment” to “Urban Renewal”.
- (2) Separates the old RDA statute into three tracks: urban renewal, economic development and community development. Each track has been redefined within specific requirements and restrictions, which are intended to provide greater oversight of the redevelopment process. The agency is allowed to receive both property tax increment and sales tax. Changes include more information for and meetings with the taxing entity committees and better control over agency and proposed budgets. In the urban renewal and economic development tracks, a super-majority of impacted entities must agree to shift tax increment. The community development track requires an agency to formalize an agreement with each taxing entity allowing them to choose whether to have their tax increment go into a project (no taxing entity committee required).

- (3) Strengthens the blight determination process by modifying: (a) the definition of blight, (b) the requirements applicable to a blight study (c) the challenge of a finding of blight (d) the standards that apply to a district court review of a finding of blight. Also, it requires a blight study to be reviewed and approved by the taxing entity committee as part of the approval process. Truly blighted areas would be confined to urban renewal projects.
- (4) Replaces the county assessor with the county auditor in a provision requiring the compilation of annual reports to the taxing entity committee; also, the auditor is to provide reports as requested by the taxing entity committee.
- (5) Requires the value of property with respect to which a taxing entity receives taxes or increased taxes for the first time to be counted as “new growth”.
- (6) Eliminates “education housing development” as a project type.
- (7) Establishes separate provisions for urban renewal, economic development and community development with respect to plan adoption, requirements and amendments..

SB 198 Property Tax – Intangible Property Effective 01/01/06

Defines “goodwill” and defines “intangible property” to include goodwill in the Property Tax Act, Section 59-2-102.

SB 221 Levies for the Assessment and Collection of Property Taxes Effective 01/01/06

Amends the levy requirements and procedures for counties participating in the Property Tax Valuation Agency Fund. A county increasing its local assessing and collecting levy to .0003 is exempt from “Truth In Taxation”; however, if the county chooses to increase the local assessing and collecting levy above .0003, then “Truth In Taxation” statutes apply. A mechanism is provided to annually reduce the multi-county assessing and collecting levy by the amount of new revenue counties will generate by increasing their local assessing and collecting levy to .0003. Also, it provides a mechanism for capturing the increase in local assessing and collecting revenues experienced in 2005 when receiver counties were required to levy at the .0003 level in order to continue receiving support from the State Assessing and Collecting Fund. This mechanism will reduce the 2006 multi-county assessing and collecting levy by the amount of additional new revenue received by receiver counties raising their local assessing and collecting levies to the .0003 level.

SB 245 Redevelopment Agency Amendments Effective 05/01/06

Adds the definition of “inactive industrial site”. Modifies size restrictions on project areas that include inactive industrial sites. Excludes inactive industrial sites from the calculation of combined incremental value for purposes of a provision prohibiting the adoption of a project area plan if a limit on combined incremental value is exceeded. Makes the presence of an inactive industrial site in a project area an alternative to finding blight for purposes of an urban renewal project. Basically, allows cities to divert tax increment to abandoned industrial sites; could assist with urban renewal (redevelopment) of abandoned industrial sites such as the Geneva Steel site in Orem and the Kennecott Copper site.