

2019 Property Tax Related Legislation

April, 2019

HB 11 Property Tax Amendments

Retrospective to January 1, 2019

Rep. Hawkes, Timothy D.

Introduces an “automatic review” for a “review property” that increases in value by 15% above the median property value change and at least \$10,000. The review property must not been improved in the current year and/or subject to a detailed review in the current year. The assessor will adjust the value if it is determined the original assessed value is not fair market value.

Also introduces a new burden of proof for “qualified real property”. If real property subject to appeal had its value lowered as the result of an appeal in the previous year, and was not improved in the current year, the assessor will calculate an “inflation adjusted value” by applying the median property value change of property in the same class and market area of the qualified real property, to the “final assessed value” of the real property. If the original assessed value for the current year is higher than the inflation adjusted value, the county BOE presumes the inflation adjusted value is most correct.

If the real property is a qualified real property, county assessor or county BOE carries the burden of proof if they assert a value that is greater than or equal to the inflation adjusted value. The taxpayer carries the burden of proof if they assert a value less than the inflation adjusted value.

If the real property subject to appeal is not a qualified real property, the taxpayer carries the burden of proof unless the county assessor, county BOE or the State Tax Commission (for centrally assessed property) asserts a fair market value greater than the original assessed value. The original assessed value will lose the presumption of correctness, a preponderance of evidence shall suffice to sustain the burden for all parties, and the county BOE or State Tax Commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.

HB 24 Property Tax Exemptions, Deferrals, and Abatements Amendments

Effective January 1, 2020

Rep. Eliason, Steve

Separates the indigent abatement and deferral into a new Part 18 in Title 59, Chapter 2 of the Utah Code. The indigent abatement and deferral are further separated into their own sections.

Separates the armed forces exemptions into a new Part 19 in Title 59, Chapter 2 of the Utah Code. The active duty armed forces exemption and veteran armed forces exemption (veteran with a disability) are further separated into their own sections.

This bill also removes the January 1 ownership requirement for active duty armed forces exemption and the veteran armed forces exemption. If multiple properties are owned in the year (i.e. if a claimant moves home) the eligible primary residence to

which the exemption is applied is that which is owned on September 1 of the application year.

HB 50 County Classification Changes

Effective March 11, 2019

Rep. Wilde, Logan

Delays action by the Lt. Governor in changing a county's classification until after July 1, 2021.

HB 63 Local Government Financial Amendments

Effective May 14, 2019

Rep. Handy, Stephen G.

Modifies the balance a local district may accumulate in its general fund. Now, the limit is the most recently adopted general fund budget plus 100% of the current year property tax. Mineral lease revenue disbursed to a local district by the federal government is excluded from this limit.

Local districts with an annual operating budget of less than \$50,000 are encouraged, but not required, to obtain liability insurance as considered appropriate by the local district board.

HB 86 Service Area Board of Trustees Amendments

Effective May 14, 2019

Rep. Waldrip, Steve

Allows municipalities who have an interlocal agreement with a service area, but is situated outside the service area boundaries, to petition for authority to appoint a member to the board of trustees. The municipality authority to appoint a board member is subject to the approval of the petition by the existing service area board of trustees.

HB 134 Area Assessment Charges

Effective May 14, 2019

Rep. Ferry, Joel

Clarifies that the statement on a tax notice that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not pay off the full amount the property owner owes to the tax notice entity or cause a release of the lien underlying the tax notice charge, is specific to assessment area charges and is only required if an assessment area charge is listed on the tax notice.

HB 185 Tax Increment Funding for Student Housing

Effective May 14, 2019

Rep. Owens, Derrin R.

Allows a redevelopment agency to use its housing allocation to contribute towards student housing within the same county, owned by (or dedicated to supporting) a public non-profit college or university, which is used only by that institution's students and immediate families.

HB 231 Tangible Personal Property Revisions

Effective Jan 1, 2020

Rep. Lisonbee, Karianne

The base tangible personal property exemption for total aggregate value per county will be increased from \$10,000 to \$15,000. The CPI adjustment remains in place.

Additionally, an item of tangible personal property not critical to the actual business operation of a business, with an acquisition cost of less than \$150, will be exempt.

If a taxpayer qualifies for an exemption for five consecutive years and files a signed statement for each of those years a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption. If a taxpayer qualifies for an exemption for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement.

HB 235 Local Tax Amendments

Effective May 14, 2019

Rep. Knotwell, John

A town, city or county may create a special revenue fund that will hold revenues from a property tax levied for a specific service established by ordinance. Revenues from this fund may only be used for the service established by ordinance.

Utah Code sections governing city library levies, water and sewer levies, and hospital levies in cities of the third through fifth class and towns are repealed. Instead Cities are given authority to establish a public library under the Heritage, Arts, Libraries and Cultural Development Act which can then be funded by a special revenue fund. Cities and towns are now able to establish special revenue funds for culinary water, wastewater treatment, hospitals and recreational facilities if they are not currently in an improvement district to provide those services.

HB 245 Community Reinvestment Agency Revisions

Effective May 14, 2019

Rep. Winder, Mike

Replaces the term “blight” with “development impediment”. Agencies are no longer able to establish taxing entity committees for new community reinvestment project areas. Prior notice of the open and public meeting required to approve and adopt an interlocal agreement for community reinvestment project must be given, titled "Diversion of Property Tax for a Community Reinvestment Project Area".

HB 367 Boundary Adjustment Notice Amendments

Effective May 14, 2019

Rep. Maloy, A. Cory

Municipalities annexing an unincorporated area or enacting a boundary adjustment now have within 60 days, as opposed to 30 days, from enacting an ordinance or the day of the election, to file with the Lt. Governor the notice of impending boundary action and copy of approved final local entity plat.

HB 433 Inland Port Amendments

Effective May 14, 2019¹

Rep. Gibson, Francis D.

Excludes assessing and collecting levies, judgment levies, and bond levies from property tax differential. The Inland Port Authority board shall enter into agreements

¹ Amendments to § 59-12-205 effective January 1, 2020.

with taxing entities to share increases in property tax differential. Otherwise, the Authority will receive 100% of the property tax differential for 25 years, and an additional 15 years if the board determines that would produce a significant benefit.

The property tax differential generated from parcels in authority jurisdictional land will be paid from November 2019 onwards. Nonauthority governing board members must make a public written disclosure if they reasonably expect to receive a direct financial benefit from development of authority jurisdictional land. Property tax differential from one project area may not be used for development in another.

The board is not required to adopt a project area plan for authority jurisdictional land, but a plan may be adopted for land outside authority jurisdiction if consent is given by the county or municipality and the land owner to include the land in a project area. This land may be anywhere in the state.

The Authority may own and operate an intermodal facility of publicly owned infrastructure in these project areas. An intermodal facility owned by the authority is subject to privilege tax.

Any legal action or challenge to a project area plan is barred unless brought within 30 days of the effective date of the plan. The authority may use up to 5% of property tax differential collected for operating expenses as opposed to 2%. No property tax differential may be spent until a business plan is adopted for authority jurisdictional land.

HB 446 Truth in Taxation Revisions

Effective May 14, 2019

Re. Spendlove, Robert M.

Cities and towns have until September 1 to hold a TNT meeting and pass a resolution to increase taxes, as opposed to August 17. The August 17 deadline to submit the resolution adopting a higher tax rate to the State Tax Commission is removed, but a September 1 deadline to hold a TNT meeting is introduced for fiscal year entities.

SB 13 Income Tax Domicile Amendments

Retrospective to January 1, 2018²

Sen. Bramble, Curtis S.

Requires county assessors to notify each owner of residential property that they are required to submit a one-time written declaration under penalty of perjury certifying whether the property is residential or part-year residential, whether they received the primary residential exemption during any portion of the current calendar year, and if they own other property in the state that receives the primary residential exemption. If so, they must provide parcel number, county where it is located, and whether this property is the primary residence of a tenant.

This declaration shall be on a form provided by the State Tax Commission. It must be returned to the county assessor within 30 days after the day on which it mailed by the county assessor. It must be mailed by May 1, 2020.

² Actual implementation of the one-time declaration mailing shall occur on or before May 1, 2020. Counties should require an ongoing declaration from new residential property owners after ownership interest changes as soon as administrable, and continue to do so after the May 1, 2020 mailing.

The mailing of this declaration by the county assessor is not required if the situs address of the residential property is the same as address listed on the driver's license or voter registration of the owner or the tenant.

Additionally, a similar ongoing declaration shall be made at the time of transfer by a new owner of residential property should ownership interest change. This must be remitted to the county assessor within five business days of title transfer.

The county shall redetermine the primary residential exemption status of the property if it is found to be incorrectly qualified or disqualified, and notify the owner of any redetermination. This redetermination is final unless appealed with 30 days of the day on which the county assessor mails the redetermination notice.

Failure to submit the declaration mailed by May 1, 2020, or required when ownership interest in a residential property changes will disqualify the property from receiving the residential exemption in that calendar year. However, the owner may file an application for residential exemption in this event.

These requirements do not apply in a county which had had in place and enforced an ordinance for the five calendar years preceding 2019 that requires a primary residential exemption application where a property was ineligible in prior calendar year, ownership interest in a residential property changes, or the county BOE believes the residential property no longer qualifies for the exemption.

SB 35 Municipal Incorporation Amendments

Effective May 14, 2019

Sen. Harper, Wayne A.

Repeals Title 10, Chapter 2a, Part 3, Incorporation of a Town. Combines the incorporation process of a town with that of a city in Title 10, Chapter 2a, Part 2. The effective date for incorporation of a town is now the same as a city (together, a municipality). A municipality incorporation (including town incorporations) is effective upon issuance of a certificate of incorporation by the Lt. Governor's office.

Previously, towns effectively incorporated the December 31 following issuance of a certificate of incorporation (if town officers are elected at a regular general or municipal general election) or the last day of the month of issuance of certificate of incorporation (if the election is held on any other date).

Also establishes additional qualifications and population density threshold for an area to incorporate as a municipality. Introduces additional requirements and a new deadline for feasibility studies.

SB 56 Community Reinvestment Agency Report Amendments

Effective May 14, 2019

Sen. Henderson, Deidre M.

Requires GOED to create a public database to track information from community reinvestment agencies across the state on or before June 30, 2021. GOED may charge a fee for a county, city, or agencies to provide information to the database. Agencies will submit the information currently required by the November 1 report. Until the database

is created, agencies will still submit the November 1 report to the State Tax Commission, State Board of Education, and all participating entities.

SB 60 Automatic Local District Withdrawal Amendments

Effective May 14, 2019

Sen. Fillmore, Lincoln

Municipalities annexing an unincorporated island or peninsula that overlaps a municipal services district may petition to withdraw the area from the district. Under this mechanism, the annexation petition must contain signatures from at least 60% of owners of total private land in the area requesting to be withdrawn from the district, and the municipal legislative body must pass a resolution of intent to withdraw the area.

The board of trustees of the municipal services district shall approve the withdrawal if it finds that the loss of revenue is off set by the savings of no longer providing services to the annexed area or the municipality agrees to terms and conditions to offset the loss of revenue. If the board is unable to make this finding they may approve or reject the withdrawal.

After the annexation is approved by resolution of the board of trustees of the municipal services district, the Lt. Governor has issued the applicable certificate, and the annexing municipality delivers the resolution, certificate and final local entity plat to the county recorder, the area is no longer part of the district for all purposes.

SB 77 Tax Increment Amendments

Effective May 14, 2019

Sen. Bramble, Curtis S.

Clarifies that in the event of an entity increasing revenue above the certified tax rate, the county shall not pay an agency the increased tax revenue for a year the increase is imposed. However, this increased revenue may be paid to the agency, if at the time of project area budget approval, each taxing entity or the taxing entity committee consent to pay the agency the increased revenue.

SB 98 Community Reinvestment Agency Amendments

Effective May 14, 2019

Sen. Harper, Wayne A.

States that community reinvestment agencies are not required to submit information to a public entity except that required by law. Requires interlocal agreements to prohibit entities from proportionately reducing the amount of funds paid to an agency by the amount of any direct expenditures made by an entity in a project area.

An agency is no longer required to allocate project area funds for housing upon agreement between the agency and the county if the project area plan provides solely for nonresidential development and 60% of jobs created are at least 125% of the average wage (not including benefits) of the county in which the project area is located.

SB 179 Truth in Taxation Amendments

Effective May 14, 2019

Sen. Fillmore, Lincoln

A TNT hearing agenda will have no items other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the

taxing entity's budget, a local district's or special service district's fee implementation or increase, or a combination of these items.

Prohibits a taxing entity from holding TNT hearing on the same date as another *public hearing*, other than a taxing entity's budget hearing, a local district's or special service district's fee hearing, or a city's or town's enterprise fund hearing.

Requires a *public meeting* addressing the general business of the taxing entity that occurs on the same date as a TNT hearing to conclude before the TNT hearing begins. Prohibits unreasonable restriction on the number of individuals who offer public comment.

SB 214 Property Tax Reporting Modifications

Effective May 14, 2019

Sen. Fillmore, Lincoln

Requires that a water conservancy district and a metropolitan water district submit a written report to the Revenue and Taxation Interim Committee listing the percentage and amount of revenue from property taxes, water rates, and all other sources.

SB 228 Public Infrastructure District Act

Effective May 14, 2019

Sen. McCay, Daniel

Allows local entities to create public infrastructure districts. If there are any registered voters within the applicable area, requires a petition signed by 100% of registered voters and surface property owners in the applicable area, in addition to other requirements for creation of a local district. An election is not required if the petition requirement is met.

A public infrastructure district may issue negotiable bonds to pay for all or part of the costs of acquiring an interest, improving, or extending various types of infrastructure. These "limited tax bonds" are issued in the same manner as general obligation bonds, with consent of 100% of surface property owners and 100% of registered voters within the boundaries of the district or upon approval of a majority of the registered voters in the district at an election. They must mature within 40 years of date of issuance.

They may be converted to general obligation bonds if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public improvement district securing the general obligation bonds.

The property tax levy of a district for all purposes may not exceed .015 per dollar of taxable value of taxable property in the district. This includes debt service on limited tax bonds but excludes general obligation bonds.

The district may charge fees for services, costs of acquiring, improving, or extending improvements, facilities, or property, or costs associated with the enforcement of a legal remedy.

In the event of nonpayment of any tax, fee, or charge that a public infrastructure district imposes, the public infrastructure district may impose a property tax penalty at an

annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax. This penalty shall be listed on the November tax notice.

SB 246 Urban Farming Assessment Act Amendments

Effective January 1, 2020

Sen. Anderegg, Jacob L.

Urban farming will include other marketable crops. The minimum contiguous acreage requirement will be reduced from two acres to one acre.

SB 263 Property Tax Definition Amendment

Effective July 1, 2020

Sen. Weiler, Todd

Amends the definition of “educational purposes” to mean the same as that term used in Section 501(c)(3), Internal Revenue Code, and interpreted according to federal law.

SB 269 Military Development Authority

Effective May 14, 2019

Sen. Stevenson, Jerry W.

Allows for the exchange of property acquired from a military installation for the construction of an interchange between MIDA and UDOT. UDOT will receive the land required for the interchange, and MIDA will receive the unused remainder of the real property UDOT does not need after construction is complete. This exchange is at no cost to either party regardless of the value of the real property.

Legal action or other challenge to a project area plan is barred if not brought within 30 days of the effective date of the plan. All legal actions and challenges are barred for a project area created before December 1, 2018. All legal actions and challenges are barred after July 1, 2019 for project areas created after December 1, 2018 and before May 14, 2019.

Allows MIDA to receive 75% of property tax allocation for an additional 15 years if the board determines that would produce significant benefit.

A hotel, a hotel condominium unit in a condominium project, or commercial condominium unit in a condominium project owned by the authority is exempt from property tax and privilege tax.