

Senator Daniel Hemmert proposes the following substitute bill:

TAX COMMISSION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Jon E. Stanard

LONG TITLE

General Description:

This bill amends provisions relating to closed meetings held by the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides the circumstances under which the State Tax Commission must hold a public meeting to revise an official numbered commission publication;
- ▶ authorizes the State Tax Commission to hold a meeting that is not open to the public to provide guidance to the commission's employees on the interpretation and application of a law administered by the commission;
- ▶ requires the State Tax Commission to provide two years of reports to the Revenue and Taxation Interim Committee containing information on all State Tax Commission meetings that were held to provide guidance to commission employees that were not open to the public; and
- ▶ repeals the provisions created by this bill on a date certain.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-1-405**, as enacted by Laws of Utah 2011, Chapter 215

31 **63I-1-259**, as last amended by Laws of Utah 2016, Chapters 350, 367, and 373

32 ENACTS:

33 **59-1-213.1**, Utah Code Annotated 1953

34 **59-1-213.2**, Utah Code Annotated 1953



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

37 Section 1. Section **59-1-213.1** is enacted to read:

38 **59-1-213.1. Public meeting on revision of commission publication.**

39 (1) As used in this section, "nonsubstantive change" means a change that does not alter
40 the meaning of a publication.

41 (2) Except as provided in Subsection (3), if the commission revises an official
42 numbered commission publication providing instruction to taxpayers, the commission, in
43 accordance with Title 52, Chapter 4, Open and Public Meetings Act, shall place the publication
44 revision on a commission meeting agenda and allow public comment on the revision.

45 (3) The commission is not required to hold a public meeting on a nonsubstantive change
46 to an official numbered commission publication.

47 Section 2. Section **59-1-213.2** is enacted to read:

48 **59-1-213.2. Annual report on provision of guidance by the commission.**

49 (1) (a) Subject to Subsection (2), the commission shall provide an electronic report to
50 the Revenue and Taxation Interim Committee on or before September 30, 2017, and on or
51 before September 30, 2018.

52 (b) The electronic report described in Subsection (1)(a) shall contain the following:

53 (i) the number of meetings that the commission held under Subsection **59-1-405**(1)(g)
54 during the 12-month period preceding the report;

55 (ii) the dates of any meetings described in Subsection (1)(b)(i);

56 (iii) a listing of the tax types discussed during the meetings described in Subsection

57 (1)(b)(i); and

58 (iv) a summary of the outcome of the meetings described in Subsection (1)(b)(i).

59 (2) In making the report required by Subsection (1), the commission shall protect the
60 name, address, social security number, or taxpayer identification number of a taxpayer.

61 Section 3. Section **59-1-405** is amended to read:

62 **59-1-405. Commission consideration of confidential tax matters.**

63 (1) As used in this section, "confidential tax matter" means:

64 (a) an offer in compromise;

65 (b) a private letter ruling;

66 (c) an appeal before the members of the commission;

67 (d) a tax matter if the disclosure of the tax matter is prohibited under:

68 (i) federal law;

69 (ii) Section 59-1-403; or

70 (iii) Section 59-1-404;

71 (e) a voluntary disclosure agreement; [or]

72 (f) a waiver request[-]; or

73 (g) provision of guidance by the commission to an employee of the commission on the
74 interpretation and application of a law administered by the commission.

75 (2) (a) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, the
76 commission may hold a meeting that is not open to the public to conduct a hearing on, discuss,
77 or take action on a confidential tax matter in accordance with the rules established as provided
78 under this section.

79 (b) When the commission holds a meeting described in Subsection (2)(a) on a
80 confidential tax matter described in Subsection (1)(g), the meeting:

81 (i) shall include:

82 (A) the commission's executive director; or

83 (B) the executive director's designee;

84 (ii) may include any other commission employee as determined by the commission;

85 and

86 (iii) may not include guidance that constitutes an ex parte communication on a
87 taxpayer specific matter.

88 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
89 commission shall make rules:

90 (a) to establish procedures for holding a meeting that is not open to the public to
91 conduct a hearing on, discuss, or take action on a confidential tax matter; and

92 (b) except as provided in Subsection (4), to establish procedures and requirements for
93 keeping confidential minutes and a confidential recording of a meeting that is not open to the
94 public.

95 (4) For purposes of Subsection (3)(b), the commission is not required to make rules to
96 establish procedures and requirements for keeping confidential minutes and a confidential
97 recording of:

98 (a) an initial hearing to the extent provided in Section 59-1-502.5; or

99 (b) private analysis, contemplation, and discussion by members of the commission:

100 (i) in performing the judicial aspects of their duties; and

101 (ii) consistent with state case law.

102 Section 4. Section 63I-1-259 is amended to read:

103 **63I-1-259. Repeal dates, Title 59.**

104 [~~(1)~~ Subsection 59-2-924(7) is repealed on December 31, 2016.]

105 (1) Section 59-1-213.1 is repealed on May 9, 2019.

106 (2) Section 59-1-213.2 is repealed on May 9, 2019.

107 (3) Subsection 59-1-405(1)(g) is repealed on May 9, 2019.

108 (4) Subsection 59-1-405(2)(b) is repealed on May 9, 2019.

109 [~~(2)~~ (5) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

110 [~~(3)~~ Section 59-2-924.3 is repealed on December 31, 2016.]

111 [~~(4)~~ (6) Section 59-7-618 is repealed July 1, 2020.

112 [~~(5)~~ (7) Section 59-9-102.5 is repealed December 31, 2020.

113 [~~(6)~~ (8) Section 59-10-1033 is repealed July 1, 2020.

114 [~~(7)~~ (9) Subsection 59-12-2219(13) is repealed on June 30, 2020.