

Constitutional Amendment B

Ballot Title

Shall the Utah Constitution be amended to authorize the creation of a property tax exemption for real property, such as land or buildings, that the state or a local government entity leases from a private owner?

Impartial Analysis

Constitutional Amendment B modifies the Utah Constitution to allow for a property tax exemption for real property that the state or a local government entity leases from a private owner.

Current Provisions of the Utah Constitution

Under the current Utah Constitution, all tangible property in the state is subject to being taxed, except for property the Constitution specifically allows to be exempt from taxation. Tangible property subject to taxation includes real property, such as land or buildings, and tangible personal property, such as machinery, office furniture, or equipment. Property tax exemptions under the Utah Constitution include an exemption for property owned by the state or by local governments, including counties, cities, towns, and school districts.

State and local governments do not necessarily own all the property they use. Sometimes they lease property from a private owner. Because that leased property is owned by a private owner, it is subject to property tax. The private owner may pass the cost of the property tax on to the state or local government that leases the property. In those cases, the state or local government ends up paying property tax on property that would not be taxed if the state or local government owned the property.

Effect of Amendment B

Constitutional Amendment B authorizes the creation of a property tax exemption for real property that the state or a local government entity leases from a private owner. The term “local government entity” is to be defined by statute. The Amendment does not allow for the exemption of tangible personal property that the state or a local government entity leases from a private owner.

Amendment B may result in a cost saving to the state or local government entities that lease real property from a private owner. Because of the exemption, the private owner of the real property would not be required to pay property tax on that real property, allowing the saving to be passed on to the state or local government entity.

Implementing Legislation

If Amendment B is approved by voters, a bill passed during the 2018 General Session of the Legislature will also take effect and become law. That bill is S.B. 76, Commercial Property Tax Exemptions. S.B. 76 provides a process for obtaining a property tax exemption for real property owned by a private owner but leased to the state or a local government entity. S.B. 76 defines “local government entity” as a county, city, town, school district, charter school, or other political subdivision of the state. That definition includes the same local government entities currently entitled to a property tax exemption for real property that they own.

Effective Date

If approved by voters, Constitutional Amendment B takes effect January 1, 2019.

Fiscal Impact

The legislative fiscal analyst estimates that the amount of property tax paid on real property that state government leases statewide from private owners is currently \$1.8 million each year. That amount is paid to local government taxing entities, which are the entities that impose property tax. The amount of annual property tax paid on real property that local government entities lease from private owners is unknown. As a local government taxing entity’s property tax revenue decreases because of exemptions claimed under Amendment B and its implementing legislation, other property taxpayers within the local government taxing entity may experience a property tax increase to generate enough property tax revenue to offset the decrease. The amount of any decrease in a local government taxing entity’s property tax revenue and the amount of any corresponding property tax increase to other taxpayers will depend on the amount and value of the leased real property and the property tax rate on that property.