

Superseded 5/10/2016

59-12-703 Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

- (1)
- (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:
 - (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or
 - (ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.
 - (b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"
 - (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:
 - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;
 - (ii) sales and uses within municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and
 - (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.
 - (d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
 - (e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
 - (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.
- (2)
- (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:
 - (i) described in Subsection (1); and
 - (ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town

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- (b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenues generated from a tax imposed under Subsection (2)(a):
 - (i) after the county legislative body submits an opinion question to residents of the county in accordance with Subsection (1) giving them the opportunity to express their opinion on the proposed revisions to county ordinances; and
 - (ii) if the county legislative body determines that a majority of those voting on the opinion question have voted in favor of the revisions.
- (3) Subject to Section 59-12-704, revenues collected from a tax imposed under Subsection (2) shall be expended:
 - (a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;
 - (b) to fund ongoing operating expenses of:
 - (i) recreational facilities described in Subsection (3)(a);
 - (ii) botanical organizations, cultural organizations, and zoological organizations within the county; and
 - (iii) rural radio stations within the county; and
 - (c) as stated in the opinion question described in Subsection (1).
- (4)
 - (a) A tax authorized under this part shall be:
 - (i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:
 - (A) the same procedures used to administer, collect, and enforce the tax under:
 - (I) Part 1, Tax Collection; or
 - (II) Part 2, Local Sales and Use Tax Act; and
 - (B) Chapter 1, General Taxation Policies; and
 - (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.
 - (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
- (5)
 - (a) For purposes of this Subsection (5):
 - (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.
 - (ii) "Annexing area" means an area that is annexed into a county.
 - (b)
 - (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.
 - (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
 - (A) that the county will enact or repeal a tax under this part;
 - (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
 - (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c)

- (i) The enactment of a tax takes effect on the first day of the first billing period:
 - (A) that begins on or after the effective date of the enactment of the tax; and
 - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.
- (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(d)

- (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
 - (A) on the first day of a calendar quarter; and
 - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e)

- (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.
- (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
 - (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;
 - (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
 - (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
 - (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f)

- (i) The enactment of a tax takes effect on the first day of the first billing period:
 - (A) that begins on or after the effective date of the enactment of the tax; and
 - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.
- (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(g)

- (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
 - (A) on the first day of a calendar quarter; and
 - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."