

1 **COUNTY OPTION SALES AND USE TAX FOR**
2 **AGRICULTURAL LAND, OPEN LAND, AND**
3 **INFILL DEVELOPMENT**

4 1999 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Evan L. Olsen**

7 AN ACT RELATING TO REVENUE AND TAXATION AND THE ELECTION CODE;
8 AMENDING THE PURPOSES FOR WHICH A LOCAL POLITICAL SUBDIVISION MAY
9 CALL A LOCAL SPECIAL ELECTION; PROVIDING DEFINITIONS; AUTHORIZING A
10 COUNTY TO IMPOSE A SALES AND USE TAX FOR AGRICULTURAL LAND, OPEN
11 LAND, OR INFILL DEVELOPMENT; ESTABLISHING REQUIREMENTS FOR THE
12 IMPOSITION AND REPEAL OF THE TAX; REQUIRING A COUNTY TO INCLUDE
13 UNUSED SALES AND USE TAX REVENUES AS PROPERTY TAX REVENUES;
14 PROVIDING FOR THE DISTRIBUTION OF THE TAX; REQUIRING COUNTIES TO
15 ESTABLISH ADVISORY BOARDS TO PROVIDE FINDINGS AND RECOMMENDATIONS
16 ON EXPENDING THE SALES AND USE TAX REVENUES; PROVIDING PROCEDURES
17 FOR ADMINISTERING THE TAX; MAKING TECHNICAL CHANGES; AND PROVIDING
18 AN EFFECTIVE DATE.

19 This act affects sections of Utah Code Annotated 1953 as follows:

20 AMENDS:

21 **20A-1-203**, as last amended by Chapter 325, Laws of Utah 1996

22 ENACTS:

23 **59-12-1401**, Utah Code Annotated 1953

24 **59-12-1402**, Utah Code Annotated 1953

25 **59-12-1403**, Utah Code Annotated 1953

26 **59-12-1404**, Utah Code Annotated 1953

27 **59-12-1405**, Utah Code Annotated 1953

28 **59-12-1406**, Utah Code Annotated 1953

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

30 Section 1. Section **20A-1-203** is amended to read:

31 **20A-1-203. Calling and purpose of special elections.**

32 (1) Statewide and local special elections may be held for any purpose authorized by law.

33 (2) (a) Statewide special elections shall be conducted using the procedure for regular
34 general elections.

35 (b) Except as otherwise provided in this title, local special elections shall be conducted
36 using the procedures for regular municipal elections.

37 (3) The governor may call a statewide special election by issuing an executive order that
38 designates:

39 (a) the date for the statewide special election; and

40 (b) the purpose for the statewide special election.

41 (4) The Legislature may call a statewide special election by passing a joint or concurrent
42 resolution that designates:

43 (a) the date for the statewide special election; and

44 (b) the purpose for the statewide special election.

45 (5) (a) The legislative body of a local political subdivision may call a local special election
46 only for:

47 (i) a vote on a bond or debt issue;

48 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or 53A-17a-134;

49 (iii) a referendum authorized by Title 20A, Chapter 7, Part 6, Local Referenda -

50 Procedures; [and]

51 (iv) an initiative authorized by Title 20A, Chapter 7, Part 5, Local Initiative - Procedures;

52 and

53 (v) a vote to impose a tax or modify a tax rate or levy, when specifically authorized or
54 required by statute.

55 (b) The legislative body of a local political subdivision may call a local special election
56 by adopting an ordinance or resolution that designates:

57 (i) the date for the local special election; and

58 (ii) the purpose for the local special election.

59 Section 2. Section 59-12-1401 is enacted to read:

60 Part 14. County Option Sales and Use Tax for Agricultural Land,
61 Open Land, and Infill Development

62 59-12-1401. Title -- Definitions.

63 (1) This part is known as the "County Option Sales and Use Tax for Agricultural Land,
64 Open Land, and Infill Development Act."

65 (2) As used in this part:

66 (a) "Agricultural land" has the same meaning as "land in agricultural use" under Section
67 59-2-502.

68 (b) "Commission processing period" means a time period:

69 (i) beginning on the day on which a county notifies the commission of the county's intent
70 to repeal a tax under this part;

71 (ii) ending 30 calendar days after the day on which a county notifies the commission of
72 the county's intent to repeal a tax under this part; and

73 (iii) during which the commission performs procedures in preparation for a tax under this
74 part to be repealed.

75 (c) "Infill development" means residential, commercial, or industrial development on
76 unused or underused land, excluding open land and agricultural land, within existing, otherwise
77 developed urban areas.

78 (d) "Open land" means land that is:

79 (i) preserved predominantly in a natural, open, and undeveloped condition; and

80 (ii) used for:

81 (A) wildlife habitat;

82 (B) cultural or recreational use;

83 (C) water source protection; or

84 (D) another use consistent with the preservation of the land in a predominantly natural,
85 open, and undeveloped condition.

86 (e) "Unused sales and use tax revenues" means any revenues:

87 (i) generated by a tax under this part; and

88 (ii) that the county has not expended to acquire a conservation easement under this part.

89 Section 3. Section 59-12-1402 is enacted to read:

90 59-12-1402. Base -- Rate -- Imposition requirements -- Administration -- Repeal.

91 (1) In addition to any other tax authorized by this chapter, a county may impose a tax as
92 provided in this part:

93 (a) of 1/8%; and

94 (b) to be used as provided in Section 59-12-1404.

95 (2) A county legislative body imposing a tax under this part shall:

96 (a) before imposing the tax, obtain approval from a majority of the:

97 (i) members of the county legislative body; and

98 (ii) registered voters of the county voting on the proposition as provided in Section
99 59-12-1403;

100 (b) (i) enact an ordinance imposing the tax; and

101 (ii) notify the commission at least 30 days prior to the day on which the ordinance
102 imposing the tax becomes effective;

103 (c) impose the tax:

104 (i) upon the sales and uses:

105 (A) described in Subsection 59-12-103(1), subject to the exemptions provided for in
106 Section 59-12-104; and

107 (B) made within the county, including sales and uses made within municipalities in the
108 county;

109 (ii) beginning on the first day of:

110 (A) January;

111 (B) April;

112 (C) July; or

113 (D) October; and

114 (iii) no later than 90 days after the day on which the county legislative body meets the
115 requirements of Subsection (2)(a); and

116 (d) within 30 calendar days after the day on which the county imposes a tax under this part,
117 enact an ordinance:

118 (i) (A) creating a fund to deposit all of the revenues generated by the tax under this part;
119 and

120 (B) providing for the administration of the fund described in Subsection (2)(d)(i)(A); and

121 (ii) creating a board to make findings and recommendations to the county legislative body
122 as provided in Section 59-12-1405 or 59-12-1406.

123 (3) Except as provided in this section, a county shall impose and the commission shall
124 administer a tax under this part in the same manner as a tax imposed under Part 2, The Local Sales
125 and Use Tax Act, except that the tax is not subject to:

126 (a) the distribution provisions of Subsections 59-12-205(2) and 59-12-205(3); and

127 (b) Subsection 59-12-205(4).

128 (4) If, at any time after the day on which a county imposes a tax under this part, the county
129 does not expend an amount of revenues generated by the tax for a purpose described in Subsection
130 59-12-1404(5)(a) for three consecutive years, the county shall:

131 (i) repeal the tax beginning on the first day of the calendar quarter immediately following
132 the last day of the commission processing period; and

133 (ii) notify the commission of the repeal of the tax at least 30 calendar days before the day
134 on which the county repeals the tax.

135 (5) If a county repeals a tax under Subsection (4), for purposes of calculating the county's
136 certified tax rate under Section 59-2-924, the county shall:

137 (a) for the calendar year beginning immediately after the county repeals the tax, include
138 as property tax revenues any unused sales and use tax revenues up to an amount equal to the
139 amount of property tax revenues the county is allowed to collect for a calendar year under the
140 county's certified tax rate as provided in Section 59-2-924; and

141 (b) for calendar years after the calendar year described in Subsection (5)(a), include as
142 property tax revenues any unused sales and use tax revenues:

143 (i) up to an amount equal to the amount of property tax revenues the county is allowed to
144 collect for a calendar year under the county's certified tax rate as provided in Section 59-2-924; and

145 (ii) until the county includes all unused sales and use tax revenues as property tax
146 revenues.

147 Section 4. Section **59-12-1403** is enacted to read:

148 **59-12-1403. Election requirements.**

149 (1) Beginning on July 1, 1999, a county may obtain approval under Subsection
150 59-12-1402(2)(a)(ii) to impose a tax under this part by submitting to the ballot a proposition:

151 (a) of whether to impose a tax under this part; and

152 (b) at a:

153 (i) special election that meets the requirements of Subsection (2)(a); or

154 (ii) regular general election that meets the requirements of Subsection (2)(b).

155 (2) (a) A county holding a special election under Subsection (1) shall hold the election:

156 (i) on a date authorized by Section 20A-1-204; and

157 (ii) according to the procedures and requirements of Sections 20A-1-203, 20A-1-204, and

158 Title 20A, Election Code.

159 (b) A county holding a regular general election under Subsection (1) shall hold the election

160 according to the procedures and requirements of Title 20A, Election Code.

161 Section 5. Section **59-12-1404** is enacted to read:

162 **59-12-1404. Distribution of tax -- Expenditure of revenues -- Board.**

163 (1) Revenues generated by a tax under this part shall be distributed to counties imposing

164 the tax as follows:

165 (a) 75% of the revenues generated by counties of the first and second class shall be

166 distributed:

167 (i) to counties of the:

168 (A) first class; and

169 (B) second class; and

170 (ii) in the ratio that the total population of each county imposing a tax under this part bears

171 to the total population of all of the counties imposing a tax under this part;

172 (b) the revenues that are generated by a county of the third, fourth, fifth, or sixth class shall

173 be distributed to the county in which the revenues were generated; and

174 (c) 25% of the revenues that are generated by counties of the first and second class shall

175 be distributed:

176 (i) to counties of the:

177 (A) third class;

178 (B) fourth class;

179 (C) fifth class; and

180 (D) sixth class; and

181 (ii) in the ratio that the total population of each county imposing a tax under this part bears

182 to the total population of all of the counties imposing a tax under this part.

183 (2) (a) The county legislative body of a county of the first or second class shall expend
184 50% of the revenues described in Subsection (1)(a) as provided in Subsection (5)(a).

185 (b) (i) The county legislative body of a county of the first or second class shall distribute
186 50% of the revenues described in Subsection (1)(a) as provided in Subsection (4).

187 (ii) Each city, town, or unincorporated area described in Subsection (4) shall expend the
188 revenues described in Subsection (2)(b)(i) as provided in Subsection (5)(b).

189 (3) (a) The county legislative body of a county of the third, fourth, fifth, or sixth class shall
190 expend 90% of the revenues described in Subsections (1)(b) and (c) as provided in Subsection
191 (5)(a).

192 (b) (i) The county legislative body of a county of the third, fourth, fifth, or sixth class shall
193 distribute 10% of the revenues described in Subsections (1)(b) and (c) as provided in Subsection
194 (4).

195 (ii) Each city, town, or unincorporated area described in Subsection (4) shall expend the
196 revenues described in Subsection (3)(b)(i) as provided in Subsection (5)(b).

197 (4) The revenues described in Subsections (2)(b)(i) and (3)(b)(i) shall be distributed:

198 (a) to each:

199 (i) city located within the county;

200 (ii) town located within the county; and

201 (iii) unincorporated area of the county; and

202 (b) in the ratio that the total population of each city, town, or unincorporated area
203 described in Subsection (4)(a) bears to the total population of all of the cities, towns, and
204 unincorporated areas described in Subsection (4)(a).

205 (5) (a) A county expending the revenues described in Subsections (2)(a) and (3)(a) shall
206 expend the revenues:

207 (i) to establish conservation easements as provided in Title 57, Chapter 18, Land
208 Conservation Easement Act, to protect agricultural land; or

209 (ii) for water source protection.

210 (b) A city, town, or unincorporated area described in Subsection (4) expending the
211 revenues described in Subsections (2)(b)(ii) and (3)(b)(ii) shall expend the revenues:

212 (i) to establish conservation easements as provided in Title 57, Chapter 18, Land
213 Conservation Easement Act, to protect open land;

214 (ii) for another use consistent with protecting open land; or
215 (iii) for infill development.

216 Section 6. Section **59-12-1405** is enacted to read:

217 **59-12-1405. County boards for counties of the first or second class.**

218 (1) The county legislative body of a county of the first or second class shall, as provided
219 in Section 59-12-1402, enact an ordinance establishing a board to make findings and
220 recommendations to the county legislative body on expending the revenues generated under
221 Subsection 59-12-1404(2)(a) for the purposes described in Subsection 59-12-1404(5)(a).

222 (2) (a) Subject to Subsection (2)(b), the board shall consist of nine members appointed by
223 the county legislative body as follows:

224 (i) three members shall be members of the county legislative body;

225 (ii) three members shall be members of a municipal legislative body of a city or town
226 located within the county;

227 (iii) one member shall represent agricultural interests as determined by the county
228 legislative body;

229 (iv) one member shall represent real estate interests as determined by the county legislative
230 body; and

231 (v) one member shall be a builder as determined by the county legislative body.

232 (b) The county legislative body shall select the members described in Subsections
233 (2)(a)(iii) through (v) from names submitted as follows:

234 (i) (A) each of the local soil conservation districts created under Title 17A, Chapter 3, Part
235 8, Soil Conservation Districts, that are located within the county shall submit two or more names
236 to the county legislative body; and

237 (B) other agricultural organizations that are located within the county may submit one or
238 more names to the county legislative body;

239 (ii) (A) the local Board of Realtors representing the county shall submit two or more
240 names to the county legislative body; and

241 (B) other organizations representing real estate interests may submit one or more names
242 to the county legislative body; and

243 (iii) (A) the local Home Builders Association representing the county shall submit two or
244 more names to the county legislative body; and

245 (B) other organizations representing home building interests may submit one or more
246 names to the county legislative body.

247 (3) The ordinance establishing the board shall:

248 (a) provide for the terms of the members;

249 (b) provide for the method of appointing members to the board;

250 (c) provide a procedure for filling vacancies and removing members from office;

251 (d) provide for the appointment of a chair of the board; and

252 (e) contain other provisions relating to the organization and procedure of the board.

253 Section 7. Section **59-12-1406** is enacted to read:

254 **59-12-1406. County boards for counties of the third, fourth, fifth, or sixth class.**

255 (1) The county legislative body of a county of the third, fourth, fifth, or sixth class shall,
256 as provided in Section 59-12-1402, enact an ordinance establishing a board to make findings and
257 recommendations to the county legislative body on expending the revenues generated under
258 Subsection 59-12-1404(3)(a) for the purposes described in Subsection 59-12-1404(5)(b).

259 (2) (a) Subject to Subsection (2)(b), the board shall consist of seven members appointed
260 by the county legislative body as follows:

261 (i) five members shall represent agricultural interests as determined by the county
262 legislative body;

263 (ii) one member shall be a:

264 (A) mayor of a city or town located within the county; or

265 (B) member of a municipal legislative body of a city or town located within the county;

266 and

267 (iii) one member shall be a member of the:

268 (A) county legislative body; or

269 (B) county executive body;

270 (b) The county legislative body shall select the members described in Subsections (2)(a)(i)
271 from names submitted as follows:

272 (i) each of the local soil conservation districts created under Title 17A, Chapter 3, Part 8,
273 Soil Conservation Districts, that are located within the county shall submit ten or more names to
274 the county legislative body; and

275 (ii) other agricultural organizations that are located within the county may submit one or

276 more names to the county legislative body.

277 (3) The ordinance establishing the board shall:

278 (a) provide for the terms of the members;

279 (b) provide for the method of appointing members to the board;

280 (c) provide a procedure for filling vacancies and removing members from office;

281 (d) provide for the appointment of a chair of the board; and

282 (e) contain other provisions relating to the organization and procedure of the board.

283 **Section 8. Effective date.**

284 This act takes effect on July 1, 1999.

Legislative Review Note

as of 1-26-99 5:31 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel