

SALES TAX FOR ARTS AND RECREATION

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Buhler

AN ACT RELATING TO THE SALES AND USE TAX ACT; EXPANDING THE DEFINITION OF A CULTURAL ORGANIZATION TO INCLUDE CERTAIN MUNICIPAL OR COUNTY CULTURAL COUNCILS; AUTHORIZING A COUNTY LEGISLATIVE BODY TO WAIVE CERTAIN EXPENSE REPORTING REQUIREMENTS; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

59-12-702, as last amended by Chapter 284, Laws of Utah 1996

59-12-704, as last amended by Chapter 22, Laws of Utah 1997

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

Section 1. Section **59-12-702** is amended to read:

59-12-702. Definitions.

As used in this part:

(1) "Botanical organization" means any private or public nonprofit organization or administrative unit [~~thereof~~] of a private or public nonprofit organization having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education.

(2) (a) [(f)] "Cultural organization" means:

(i) a nonprofit institutional organization or an administrative unit [~~thereof~~] of a nonprofit institutional organization having as its primary purpose the advancement and preservation of:

(A) natural history[;];

(B) art[;];

(C) music[;];

(D) theater[;]; or

(E) dance[;]; and

(ii) [For] for purposes of Subsections 59-12-704(1)(d) and 59-12-704(6)[, "cultural organization" also] includes:

(A) a nonprofit institutional organization or administrative unit [thereof] of a nonprofit institutional organization having as its primary purpose the advancement and preservation of history[-];

(B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:

(I) history;

(II) natural history;

(III) art;

(IV) music;

(V) theater; or

(VI) dance.

(b) "Cultural organization" does not include:

(i) any agency of the state[-];

(ii) except as provided in Subsection (2)(a)(ii)(B), any political subdivision of the state[-or];

(iii) any educational institution whose annual revenues are directly derived more than 50% from state funds[-]; or

(iv) any radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(3) "Recreational facility" means any publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, or other facility used for recreational purposes.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), "zoological organization" means a nonprofit institutional organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of mammals, birds, reptiles, and

amphibians to an audience of 500,000 or more persons annually.

(b) "Zoological organization" does not include any agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

Section 2. Section **59-12-704** is amended to read:

59-12-704. Distribution of revenues -- Advisory board creation -- Determining operating expenses.

(1) Except as provided in ~~[Subsection]~~ Subsections (3)(b) and (5), and subject to the requirements of ~~[Subsection (3)]~~ this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support recreational facilities and botanical, cultural, and zoological organizations within that first class county as follows:

(a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support recreational facilities located within the county~~[-];~~

(b) (i) 12.5% of the revenue collected by the county under this section shall be distributed by the county legislative body to support zoological organizations located within the county~~[-The];~~ and

(ii) the county legislative body shall determine how the monies shall be distributed among ~~[such]~~ the zoological organizations~~[-];~~

(c) (i) 52.5% of the revenue collected by the county under this section shall be distributed to botanical and cultural organizations with average annual operating expenses of more than \$250,000 as determined under Subsection (3)~~[-];~~

(ii) ~~[Subject]~~ subject to Subsection (1)(c)(iii), the county legislative body shall distribute the monies described in Subsection (1)(c)(i) among ~~[such]~~ the organizations and in proportion to their average annual operating expenses as determined under Subsection (3)~~[-];~~ and

(iii) ~~[The]~~ the amount distributed to any ~~[such]~~ organization described in Subsection (1)(c)(i) may not exceed 35% of the organization's budget~~[-];~~ and

(d) (i) 5% of the revenue collected by the county under this section shall be distributed to

botanical and cultural organizations with average annual operating expenses of less than \$250,000 as determined under Subsection (3)~~[- The]; and~~

(ii) the county legislative body shall determine how the monies shall be distributed among [such] the organizations described in Subsection (1)(d)(i).

(2)(a) The county legislative body of each county of the first class shall create an advisory board to advise the county legislative body on disbursement of funds to botanical and cultural organizations under Subsection (1)(c)(i).

(b) (i) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body.

(ii) Two of the seven members of the advisory board under Subsection (2)(a) shall be appointed from the Utah Arts Council.

(3) ~~[To]~~ (a) Except as provided in Subsection (3)(b), to be eligible to receive monies collected by the county under this part, a botanical, cultural, and zoological organization located within a county of the first class shall, every three years:

~~[(a)]~~ (i) calculate their average annual expenses based upon audited expenses for three preceding fiscal years; and

~~[(b)]~~ (ii) submit to the appropriate county legislative body:

~~[(i)]~~ (A) a verified audit of annual expenses for each of those three preceding fiscal years; and

~~[(ii)]~~ (B) the average annual expenses as calculated under Subsection (3)(a)(i).

(b) Notwithstanding Subsection (3)(a), the county legislative body may waive the expense reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

(4) When calculating average annual expenses as described in Subsection (3), each botanical, cultural, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

(5) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(a), (b), and (d).

(b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

(6) In all other counties, the county legislative body shall distribute:

(a) 30% of the revenues collected by the county as a result of a tax imposed under this section to support recreational facilities within the county; and

(b) 70% of the revenues to botanical, cultural, and zoological organizations within the county as determined by the county legislative body.

(7) The commission may retain an amount not to exceed 1-1/2% of the county option funding collected under this part for the cost of administering this part.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.