

TAX EXPENDITURES FOR ZOOLOGICAL FACILITIES

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Steven Poulton

AN ACT RELATING TO REVENUE AND TAXATION; AUTHORIZING THE USE OF COUNTY SALES AND USE TAX TO SUPPORT ZOOLOGICAL FACILITIES; DEFINING ZOOLOGICAL FACILITIES; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

59-12-701, as last amended by Chapter 284, Laws of Utah 1996

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

59-12-703, 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 **59-12-701** is amended to read:

59-12-701. Purpose statement.

The Utah Legislature finds and declares that:

(1) Recreational and zoological facilities and the botanical, cultural, and zoological organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the continuing growth of Utah's tourist, convention, and recreational industries.

(2) Utah was the first state in this nation to create and financially support a state arts agency, now the Utah Arts Council, which is committed to the nurturing and growth of cultural pursuits.

(3) Utah has provided, and intends to continue, the financial support of recreational and zoological facilities and the botanical, cultural, and zoological organizations of this state.

(4) The state's support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations has not been sufficient to assure the continuing existence and growth of these facilities and organizations, and the Legislature believes that local government may wish to play a greater role in the support of these organizations.

(5) Without jeopardizing the state's ongoing support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations, the Legislature intends to permit the counties of the state of Utah to enhance public financial support of Utah's publicly owned or operated recreational and zoological facilities and botanical, cultural, and zoological organizations through the imposition of a county sales and use tax.

Section 2. 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 having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education.

(2) (a) (i) "Cultural organization" means a nonprofit institutional organization or administrative unit thereof having as its primary purpose the advancement and preservation of natural history, art, music, theater, or dance.

(ii) For purposes of Subsections 59-12-704(1)(d) and (6), "cultural organization" also includes a nonprofit institutional organization or administrative unit thereof having as its primary purpose the advancement and preservation of history.

(b) "Cultural organization" does not include any agency of the state, any political subdivision of the state, or any educational institution whose annual revenues are directly derived more than 50% from state funds, 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.

(iii) In a county of the first class, "zoological facilities" means any buildings, exhibits, utilities and infrastructure, walkways, pathways, roadways, offices, administration facilities, public service facilities, educational facilities, enclosures, public viewing areas, animal barriers, animal housing, animal care facilities, and veterinary and hospital facilities related to the advancement, exhibition, or preservation of mammals, birds, reptiles, or amphibians.

(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 3. Section **59-12-703** is amended to read:

59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.

(1) (a) Any county legislative body may, by majority vote of all members, submit an opinion question to the residents of that county so that each resident has an opportunity to express his opinion on the imposition of a local sales and use tax of 1/10 of 1% to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that county.

(b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah Municipal Bond Act.

(2) (a) If the county legislative body determines that a majority of the qualified electors voting on the opinion question has assented to the imposition of a local sales and use tax as prescribed in Subsection (1)(a), the county legislative body may, by a majority vote of all members, impose such a tax.

(b) If the county legislative body imposes a tax under Subsection (2)(a), the tax shall be imposed at the beginning of the quarter following the county legislative body's decision to impose such a tax.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing recreational and zoological facilities and ongoing operating expenses of botanical, cultural, and zoological organizations within the county.

(4) Taxes imposed under this part shall be:

(a) levied at the same time and collected in the same manner as provided in Title 59, Chapter 12, Part 2, The Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2); and

(b) levied for a period of ten years and may be reauthorized at the end of the ten-year period in accordance with this section.

Section 4. 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 (5), and subject to the requirements of Subsection (3), 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 and zoological 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) 12.5% of the revenue collected by the county under this section shall be distributed by the county legislative body to support zoological facilities and organizations located within the county. The county legislative body shall determine how the monies shall be distributed among such 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 to Subsection (1)(c)(iii), the county legislative body shall distribute the monies among such organizations in proportion to their average annual operating expenses as determined under Subsection (3).

(iii) The amount distributed to any such organization may not exceed 35% of the organization's budget.

(d) 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 county legislative body shall determine how the monies shall be distributed among such organizations.

(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) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body. Two of the seven members shall be appointed from the Utah Arts Council.

(3) 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) calculate their average annual expenses based upon audited expenses for three preceding fiscal years; and

(b) submit to the appropriate county legislative body:

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

(ii) the average annual expenses as calculated under Subsection (3)(a).

(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) 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). Any change shall be rounded off to the nearest \$100.

(6) In all other counties, the county legislative body shall distribute 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 70% of the revenues to botanical, cultural, and zoological facilities and 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.