

Representative Evan L. Olsen proposes to substitute the following bill:

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

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Evan L. Olsen

AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING DEFINITIONS;
AUTHORIZING A COUNTY TO IMPOSE A SALES AND USE TAX FOR AGRICULTURAL
LAND, OPEN LAND, OR INFILL DEVELOPMENT; ESTABLISHING REQUIREMENTS FOR
THE IMPOSITION AND REPEAL OF THE TAX; REQUIRING A COUNTY TO INCLUDE
UNUSED SALES AND USE TAX REVENUES AS PROPERTY TAX REVENUES;
PROVIDING FOR THE DISTRIBUTION OF THE TAX; REQUIRING COUNTIES TO
ESTABLISH ADVISORY BOARDS TO PROVIDE FINDINGS AND RECOMMENDATIONS
ON EXPENDING THE SALES AND USE TAX REVENUES; PROVIDING PROCEDURES
FOR ADMINISTERING THE TAX; MAKING TECHNICAL CHANGES; AND PROVIDING
AN EFFECTIVE DATE.

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

ENACTS:

59-12-1401, Utah Code Annotated 1953

59-12-1402, Utah Code Annotated 1953

59-12-1403, Utah Code Annotated 1953

59-12-1404, Utah Code Annotated 1953

59-12-1405, Utah Code Annotated 1953

59-12-1406, Utah Code Annotated 1953

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

Section 1. Section **59-12-1401** is enacted to read:

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

59-12-1401. Title -- Definitions.

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

(2) As used in this part:

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

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

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

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

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part to be repealed.

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

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

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

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

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

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

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

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

Section 2. Section **59-12-1402** is enacted to read:

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

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

(a) of 1/8%; and

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

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

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

(i) members of the county legislative body; and

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

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

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

(c) impose the tax:

(i) upon the sales and uses:

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

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

(ii) beginning on the first day of:

(A) January;

(B) April;

(C) July; or

(D) October; and

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

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

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

and

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

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

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

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

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

95 (4) If, at any time after the day on which a county imposes a tax under this part, the county
96 does not expend an amount of revenues generated by the tax for a purpose described in Subsection
97 59-12-1404(5)(a) for three consecutive years, the county shall:

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

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

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

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

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

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

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

114 Section 3. Section **59-12-1403** is enacted to read:

115 **59-12-1403. Election requirements.**

116 (1) Beginning on July 1, 1999, a county may obtain approval under Subsection
117 59-12-1402(2)(a)(ii) to impose a tax under this part by submitting to the ballot a proposition:

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

(b) at a:

(i) municipal general election that meets the requirements of Subsection (2)(a); or

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

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

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

(ii) according to the procedures and requirements of Section 20A-1-202 and Title 20A, Election Code.

(b) A county holding a regular general election under Subsection (1) shall hold the election according to the procedures and requirements of Title 20A, Election Code.

Section 4. Section **59-12-1404** is enacted to read:

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

(1) Revenues generated by a tax under this part shall be distributed to the county in which the revenues were generated.

(2) (a) The county legislative body of a county of the first or second class shall expend 50% of the revenues generated by a tax under this part as provided in Subsection (5)(a).

(b) (i) The county legislative body of a county of the first or second class shall distribute 50% of the revenues generated by a tax under this part as provided in Subsection (4).

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

(3) (a) The county legislative body of a county of the third, fourth, fifth, or sixth class shall expend 90% of the revenues generated by a tax under this part as provided in Subsection (5)(a).

(b) (i) The county legislative body of a county of the third, fourth, fifth, or sixth class shall distribute 10% of the revenues generated by a tax under this part as provided in Subsection (4).

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

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

(a) to each:

(i) city located within the county;

(ii) town located within the county; and

(iii) unincorporated area of the county; and

(b) in the ratio that the total population of each city, town, or unincorporated area

described in Subsection (4)(a) bears to the total population of all of the cities, towns, and unincorporated areas described in Subsection (4)(a).

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

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

(ii) for watershed protection;

(iii) for per diem and expenses for members of a county board as provided in Section 59-12-1405 or 59-12-1406; or

(iv) for a combination of the purposes described in Subsections (5)(a)(i) through (iii).

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

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

(ii) for another use consistent with protecting open land;

(iii) for infill development;

(iv) for per diem and expenses for members of a county board as provided in Section 59-12-1405 or 59-12-1406; or

(v) for a combination of the purposes described in Subsections (5)(a)(i) through (iv).

Section 5. Section 59-12-1405 is enacted to read:

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

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

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

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

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

(iii) one member shall represent agricultural interests as determined by the county

181 legislative body;

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

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

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

187 (i) (A) each of the local soil conservation districts created under Title 17A, Chapter 3, Part
188 8, Soil Conservation Districts, that are located within the county shall submit two or more names
189 to the county legislative body; and

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

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

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

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

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

200 (3) The ordinance establishing the board shall:

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

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

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

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

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

206 (4) (a) (i) Members who are not government employees shall receive no compensation or
207 benefits for their services, but may receive per diem and expenses incurred in the performance of
208 the member's official duties at the rates established by the Division of Finance under Sections
209 63A-3-106 and 63A-3-107.

210 (ii) Members may decline to receive per diem and expenses for their service.

211 (b) (i) Local government members who do not receive salary, per diem, or expenses from

the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 6. Section **59-12-1406** is enacted to read:

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

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

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

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

(ii) one member shall be a:

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

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

and

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

(A) county legislative body; or

(B) county executive body;

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

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

(ii) other agricultural organizations that are located within the county may submit one or more names to the county legislative body.

(3) The ordinance establishing the board shall:

(a) provide for the terms of the members;

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

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

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

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

(4) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 7. **Effective date.**

This act takes effect on July 1, 1999.