

**SALES AND USE TAX - BOTANICAL, CULTURAL,
RECREATIONAL, AND ZOOLOGICAL
ORGANIZATIONS OR FACILITIES AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

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This act modifies the Sales and Use Tax Act to allow a city or town to impose a tax beginning on or after January 1, 2003 for the support of recreational and zoological facilities and botanical, cultural, and zoological organizations if the county in which the city or town is located does not impose a similar tax. The act indicates the purpose of the tax and provides definitions. The act provides for an opinion vote, for the imposition of the tax, and for notification to the State Tax Commission of changes in the imposition of the tax. This act addresses the distribution of the city or town tax and the distribution of the similar county tax. This act has a July 1, 2001 effective date.

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

AMENDS:

59-12-703 (Effective 07/01/01), as last amended by Chapters 253 and 319, Laws of Utah 2000

59-12-704, as last amended by Chapter 202, Laws of Utah 2000

ENACTS:

59-12-1401, Utah Code Annotated 1953

59-12-1402, Utah Code Annotated 1953

59-12-1403, Utah Code Annotated 1953

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

Section 1. Section **59-12-703 (Effective 07/01/01)** is amended to read:

59-12-703 (Effective 07/01/01). Opinion question election -- Imposition of tax -- Uses of tax monies.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may~~[-]~~by

~~majority vote of all members,]~~ 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 has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of ~~[1/10 of 1%]~~ .1% on the transactions described in Subsection 59-12-103(1), to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that county.

(ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

(A) 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; and

(B) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

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

(2) If the county legislative body determines that a majority of the ~~[qualified electors]~~ county's registered voters voting on the ~~[opinion question has assented to]~~ imposition of the tax have voted in favor of the imposition of ~~[a local sales and use]~~ the tax as prescribed in Subsection (1)(a), the county legislative body may~~[-]~~ impose the tax by a majority vote of all members~~[- impose such a tax-]~~ of the legislative body on the transactions:

(a) described in Subsection (1); and

(b) within the county, including the cities and towns located in the county.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing:

(a) recreational and zoological facilities within the county or a city or town located in the county; and

(b) 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, 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.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) If, on or after May 1, 2000, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 75-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 or change the rate of 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 or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 75-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(c)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(c)(ii)(A);

- (C) the effective date of the tax described in Subsection (5)(c)(ii)(A); and
- (D) the new rate of the tax described in Subsection (5)(c)(ii)(A).

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 Subsections (3)(b) and (5), and subject to the requirements of 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 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) (i) 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; and

(ii) the county legislative body shall determine how the monies shall be distributed among 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 to Subsection (1)(c)(iii), the county legislative body shall distribute the monies described in Subsection (1)(c)(i) among the organizations and in proportion to their average annual operating expenses as determined under Subsection (3); and

(iii) the amount distributed to any 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); and

(ii) the county legislative body shall determine how the monies shall be distributed among

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) (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:

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

(ii) submit to the appropriate county legislative body:

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

(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)(c) and (d).

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

(6) (a) Beginning on July 1, ~~[2000]~~ 2001, in a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of ~~[100%]~~ the entire amount of of the revenues generated by the tax imposed by this section as ~~[follows:]~~ provided in this Subsection (6).

~~[(a) the county legislative body shall in the ordinance providing for the distribution of the revenues generated by a tax imposed by this section specify a percentage of revenues:]~~

~~[(i) that is not less than 30% but that does not exceed 45%; and]~~

~~[(ii) to be distributed to support recreational facilities within the county; and]~~

~~[(b) after specifying the percentage of revenues to be distributed to support recreational facilities under Subsection (6)(a), the county legislative body shall provide in the ordinance providing for the distribution of the revenues generated by a tax imposed by this section that the remainder of the revenues shall be distributed to support the following:]~~

~~[(i) one or more botanical organizations;]~~

~~[(ii) one or more cultural organizations;]~~

~~[(iii) one or more zoological organizations;]~~

~~[(iv) one or more zoological facilities; or]~~

~~[(v) a combination of Subsections (6)(b)(i) through (iv).]~~

(b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city, town, or political subdivision within the county revenues generated by a tax under this part.

(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:

(i) directly by the county described in Subsection (6)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection (6)(b).

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

Section 3. Section **59-12-1401** is enacted to read:

Part 14. City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities

59-12-1401. Purpose statement -- Definitions -- Scope of part.

(1) The purpose of the tax imposed by this part is the same for cities and towns as is stated in Section 59-12-701 for counties.

(2) The definitions of Section 59-12-702 are incorporated into this part.

(3) This part applies only to a city or town that is located within a county of the third, fourth, fifth, or sixth class as designated in Section 17-50-501.

Section 4. Section **59-12-1402** is enacted to read:

59-12-1402. Opinion question election -- Imposition of tax -- Uses of tax monies.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii) and subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town 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), to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that city or town.

(ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not impose a tax under this section:

(A) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(B) on 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; and

(C) on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection (6).

(2) If the city or town legislative body determines that a majority of the city's or town'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)(a), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing:

(a) recreational and zoological facilities within the city or town; and

(b) ongoing operating expenses of botanical, cultural, and zoological organizations within the city or town.

(4) Taxes imposed under this part shall be:

(a) levied at the same time and collected in the same manner as provided in Part 2, 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) (i) levied for a period of five years; and

(ii) may be reauthorized at the end of the five-year period in accordance with this section.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) If, on or after January 1, 2003, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 75-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of 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 city or town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after January 1, 2003, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 75-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(c)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (5)(c)(ii)(A).

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the

residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide

a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

Section 5. Section **59-12-1403** is enacted to read:

59-12-1403. Distribution of revenues -- Administrative costs.

(1) (a) The city or town legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this part in accordance with this section.

(b) A city or town may participate in an interlocal agreement provided for under Section 59-12-704 and distribute the revenues generated by the tax imposed by this part to participants in the interlocal agreement.

(c) The revenues generated by the tax shall be used for one or more organizations or facilities defined in Section 59-12-702.

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

Section 6. **Effective date.**

This act takes effect on July 1, 2001.