

Senator Michael G. Waddoups proposes the following substitute bill:

1 **COUNTY OPTION FUNDING FOR BOTANICAL,**
2 **CULTURAL, RECREATIONAL, AND ZOOLOGICAL**
3 **ORGANIZATIONS OR FACILITIES AMENDMENTS**

4 2003 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Sheryl L. Allen**

7 Jackie Biskupski

Brent H. Goodfellow

Martin R. Stephens

8 Greg J. Curtis

Ty McCartney

David Ure

9 **This act modifies provisions relating to Revenue and Taxation. The act expands the**
10 **potential recipients of the sales and use tax revenues in certain counties and clarifies what**
11 **administrative units are eligible for receipt of revenues. The act modifies the composition**
12 **of advisory boards. The act authorizes county legislative bodies to retain a percentage of**
13 **the applicable sales and use tax proceeds to cover administrative costs. The act takes**
14 **effect on July 1, 2003.**

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

16 AMENDS:

17 **59-12-702**, as last amended by Chapter 21, Laws of Utah 1999

18 **59-12-703**, as last amended by Chapter 192, Laws of Utah 2001

19 **59-12-704**, as last amended by Chapter 192, Laws of Utah 2001

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

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

22 **59-12-702. Definitions.**

23 As used in this part:

24 (1) "Administrative unit" means a division of a private nonprofit organization or
25 institution that:



26 (a) would, if it were a separate entity, be a botanical organization or cultural
27 organization; and

28 (b) consistently maintains books and records separate from those of its parent
29 organization.

30 [(+) (2) "Botanical organization" means [any]:

31 (a) a private [~~or public~~] nonprofit organization or [~~administrative unit of a private or~~
32 ~~public nonprofit organization~~] institution having as its primary purpose the advancement and
33 preservation of plant science through horticultural display, botanical research, and community
34 education[-]; or

35 (b) an administrative unit.

36 [(2) (3) (a) "Cultural organization":

37 (i) means:

38 [(+) (A) a private nonprofit [~~institutional~~] organization or [~~an administrative unit of a~~
39 ~~nonprofit institutional organization~~] institution having as its primary purpose the advancement
40 and preservation of:

41 [(A) (I) natural history;

42 [(B) (II) art;

43 [(C) (III) music;

44 [(D) (IV) theater; or

45 [(E) (V) dance; and

46 (B) an administrative unit; and

47 (ii) includes, for purposes of Subsections 59-12-704(1)(d) and (6) [~~includes~~] only:

48 (A) a private nonprofit [~~institutional~~] organization or [~~administrative unit of a nonprofit~~
49 ~~institutional organization~~] institution having as its primary purpose the advancement and
50 preservation of history;

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

53 (I) history;

54 (II) natural history;

55 (III) art;

56 (IV) music;

57 (V) theater; or

58 (VI) dance.

59 (b) "Cultural organization" does not include:

60 (i) any agency of the state;

61 (ii) except as provided in Subsection [~~(2)~~] (3)(a)(ii)(B), any political subdivision of the
62 state;

63 (iii) any educational institution whose annual revenues are directly derived more than
64 50% from state funds; or

65 (iv) in a county of the first or second class, any radio or television broadcasting
66 network or station, cable communications system, newspaper, or magazine.

67 (4) "Institution" means any of the institutions listed in Subsections 53B-1-102(1)(b)
68 through (1).

69 [~~(3)~~] (5) "Recreational facility" means any publicly owned or operated park,
70 campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming
71 pool, trail system, or other facility used for recreational purposes.

72 (6) "Rural radio station" means a nonprofit radio station based in a county of the third,
73 fourth, fifth, or sixth class.

74 [~~(4)~~] (7) In a county of the first class, "zoological facilities" means any buildings,
75 exhibits, utilities and infrastructure, walkways, pathways, roadways, offices, administration
76 facilities, public service facilities, educational facilities, enclosures, public viewing areas,
77 animal barriers, animal housing, animal care facilities, and veterinary and hospital facilities
78 related to the advancement, exhibition, or preservation of mammals, birds, reptiles, or
79 amphibians.

80 [~~(5)~~] (8) (a) (i) Except as provided in Subsection [~~(5)~~] (8)(a)(ii), "zoological
81 organization" means a nonprofit [~~institutional~~] organization having as its primary purpose the
82 advancement and preservation of zoology.

83 (ii) In a county of the first class, "zoological organization" means a nonprofit
84 organization having as its primary purpose the advancement and exhibition of mammals, birds,
85 reptiles, [~~and~~] or amphibians to an audience of [~~500,000~~] 75,000 or more persons annually.

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

88 newspaper, or magazine.

89 Section 2. Section **59-12-703** is amended to read:

90 **59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.**

91 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may
92 submit an opinion question to the residents of that county, by majority vote of all members of
93 the legislative body, so that each resident of the county has an opportunity to express the
94 resident's opinion on the imposition of a local sales and use tax of .1% on the transactions
95 described in Subsection 59-12-103(1), to fund recreational and zoological facilities [~~and~~],
96 botanical, cultural, and zoological organizations, and rural radio stations in that county.

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

99 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
100 are exempt from taxation under Section 59-12-104; and

101 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
102 59-12-107(1)(b).

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

105 (2) If the county legislative body determines that a majority of the county's registered
106 voters voting on the imposition of the tax have voted in favor of the imposition of the tax as
107 prescribed in Subsection (1)(a), the county legislative body may impose the tax by a majority
108 vote of all members of the legislative body on the transactions:

109 (a) described in Subsection (1); and

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

111 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
112 [~~financing~~] funding:

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

115 (b) ongoing operating expenses of:

116 (i) recreational facilities described in Subsection (3)(a);

117 (ii) botanical, cultural, and zoological organizations within the county[-]; and

118 (iii) rural radio stations within the county.

- 119 (4) Taxes imposed under this part shall be:
- 120 (a) levied at the same time and collected in the same manner as provided in Part 2,
- 121 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is
- 122 not subject to Subsection 59-12-205(2); and
- 123 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
- 124 period in accordance with this section.
- 125 (5) (a) For purposes of this Subsection (5):
- 126 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
- 127 Annexation to County.
- 128 (ii) "Annexing area" means an area that is annexed into a county.
- 129 (b) (i) If, on or after May 1, 2000, a county enacts or repeals a tax or changes the rate of
- 130 a tax under this part, the enactment, repeal, or change shall take effect:
- 131 (A) on the first day of a calendar quarter; and
- 132 (B) after a 75-day period beginning on the date the commission receives notice meeting
- 133 the requirements of Subsection (5)(b)(ii) from the county.
- 134 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 135 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
- 136 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 137 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 138 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 139 (5)(b)(ii)(A), the new rate of the tax.
- 140 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will
- 141 result in a change in the rate of a tax under this part for an annexing area, the change shall take
- 142 effect:
- 143 (A) on the first day of a calendar quarter; and
- 144 (B) after a 75-day period beginning on the date the commission receives notice meeting
- 145 the requirements of Subsection (5)(c)(ii) from the county that annexes the annexing area.
- 146 (ii) The notice described in Subsection (5)(c)(i)(B) shall state:
- 147 (A) that the annexation described in Subsection (5)(c)(i) will result in a change in the
- 148 rate of a tax under this part for the annexing area;
- 149 (B) the statutory authority for the tax described in Subsection (5)(c)(ii)(A);

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

152 Section 3. Section **59-12-704** is amended to read:

153 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
154 **operating expenses.**

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

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

162 (b) (i) 12.5% of the revenue collected by the county under this section shall be
163 distributed by the county legislative body to support zoological facilities and organizations
164 located within the county; and

165 (ii) the county legislative body shall determine how the monies shall be distributed
166 among the zoological organizations;

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

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

173 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may
174 not exceed 35% of the organization's operating budget; and

175 (d) (i) 5% of the revenue collected by the county under this section shall be distributed
176 to botanical and cultural organizations [~~with average annual operating expenses of less than~~
177 ~~\$250,000 as determined under Subsection (3)] that do not receive revenue under Subsection
178 (1)(c)(i); and~~

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

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

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

186 (ii) [~~Two~~] In a county of the first class, two of the seven members of the advisory
187 board under Subsection (2)(a) shall be appointed from the Utah Arts Council.

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

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

193 (ii) submit to the appropriate county legislative body:

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

196 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

197 (b) Notwithstanding Subsection (3)(a), the county legislative body may waive the
198 [~~expense~~] operating expenses reporting requirements under Subsection (3)(a) for organizations
199 described in Subsection (1)(d)(i).

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

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

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

206 (6) (a) Beginning on July 1, 2001, in a county except for a county of the first class, the
207 county legislative body shall by ordinance provide for the distribution of the entire amount of
208 the revenues generated by the tax imposed by this section as provided in this Subsection (6).

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

212 part.

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

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

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

219 (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under
220 this part for the cost of administering the provisions of this part.

221 [~~7~~] (8) The commission may retain an amount not to exceed 1-1/2% of the tax
222 collected under this part for the cost of administering this part.

223 Section 4. **Effective date.**

224 This act takes effect on July 1, 2003.