

1 **AMENDMENTS TO LOCAL OPTION SALES**

2 **TAX FOR MUNICIPALITIES**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Sheryl L. Allen**

6 Katherine M. Bryson

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies Revenue and Taxation provisions related to a local option sales tax
11 for funding recreational and zoological facilities and botanical, cultural, and zoological
12 organizations.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ extends to cities and towns in second class counties the authority to impose a sales
- 16 tax for funding recreational and zoological facilities and botanical, cultural, and
- 17 zoological organizations;
- 18 ▶ extends from five to ten years the period for which the sales tax may be levied; and
- 19 ▶ requires each election for voter approval of the sales tax to take place at a regular
- 20 general election or municipal general election.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides an effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-12-1401**, as enacted by Chapter 192, Laws of Utah 2001



28 **59-12-1402 (Superseded 07/01/04)**, as enacted by Chapter 192, Laws of Utah 2001
29 **59-12-1402 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003



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

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

33 **59-12-1401. Purpose statement -- Definitions -- Scope of part.**

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

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

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

39 Section 2. Section **59-12-1402 (Superseded 07/01/04)** is amended to read:

40 **59-12-1402 (Superseded 07/01/04). Opinion question election -- Imposition of tax**
41 **-- Uses of tax monies.**

42 (1) (a) (i) Except as provided in Subsection (1)(a)(ii) and subject to Subsection (6),
43 beginning on January 1, 2003, a city or town legislative body subject to this part may submit an
44 opinion question to the residents of that city or town, by majority vote of all members of the
45 legislative body, so that each resident of the city or town has an opportunity to express the
46 resident's opinion on the imposition of a local sales and use tax of .1% on the transactions
47 described in Subsection 59-12-103(1), to fund recreational and zoological facilities and
48 botanical, cultural, and zoological organizations in that city or town.

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

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

54 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
55 uses are exempt from taxation under Section 59-12-104; and

56 (C) on any amounts paid or charged by a vendor that collects a tax under Subsection
57 59-12-107(1)(b).

58 (b) The election shall be held at a regular general election or a municipal general

59 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
60 outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection
61 (6).

62 (2) If the city or town legislative body determines that a majority of the city's or town's
63 registered voters voting on the imposition of the tax have voted in favor of the imposition of
64 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
65 by a majority vote of all members of the legislative body.

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

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

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

71 (4) Taxes imposed under this part shall be:

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

75 (b) (i) levied for a period of [~~five~~] ten years; and

76 (ii) may be reauthorized at the end of the [~~five~~] ten-year period in accordance with this
77 section.

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

79 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
80 4, Annexation.

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

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

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

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

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

88 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
89 part;

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

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

92 (D) if the city or town enacts the tax or changes the rate of the tax described in
93 Subsection (5)(b)(ii)(A), the new rate of the tax.

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

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

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

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

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

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

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

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

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

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

110 (ii) receive from the county legislative body:

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

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

119 (b) (i) Within 60 days after the day the county legislative body receives from a city or
120 town legislative body described in Subsection (6)(a) the notice of the intent to submit an

121 opinion question to the residents of the city or town, the county legislative body shall provide
122 the city or town legislative body:

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

124 (B) written notice that the county legislative body will submit an opinion question to
125 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
126 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
127 that part.

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

132 (A) a 12-month period;

133 (B) the next regular primary election; or

134 (C) the next regular general election.

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

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

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

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

152 who are residents of the city or town voted for the imposition of the county tax.

153 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
154 provide a city or town legislative body described in Subsection (6)(a) a written resolution
155 passed by the county legislative body stating that the county legislative body is not seeking to
156 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
157 Zoological Organizations or Facilities, which permits the city or town legislative body to
158 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

159 Section 3. Section 59-12-1402 (Effective 07/01/04) is amended to read:

160 **59-12-1402 (Effective 07/01/04). Opinion question election -- Imposition of tax --**
161 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

162 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and
163 subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject
164 to this part may submit an opinion question to the residents of that city or town, by majority
165 vote of all members of the legislative body, so that each resident of the city or town has an
166 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
167 .1% on the transactions described in Subsection 59-12-103(1) located within the city or town,
168 to fund recreational and zoological facilities and botanical, cultural, and zoological
169 organizations in that city or town.

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

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

175 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
176 uses are exempt from taxation under Section 59-12-104.

177 (b) For purposes of this Subsection (1), the location of a transaction shall be
178 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

179 (c) The election shall be held at a regular general election or a municipal general
180 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
181 outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection
182 (6).

183 (2) If the city or town legislative body determines that a majority of the city's or town's
184 registered voters voting on the imposition of the tax have voted in favor of the imposition of
185 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
186 by a majority vote of all members of the legislative body.

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

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

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

192 (4) (a) A tax under this part shall be:

193 (i) except as provided in Subsection (4)(b), levied at the same time and collected in the
194 same manner as provided in Part 2, Local Sales and Use Tax Act; and

195 (ii) (A) levied for a period of [~~five~~] ten years; and

196 (B) may be reauthorized at the end of the [~~five~~] ten-year period in accordance with this
197 section.

198 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
199 Subsections 59-12-205(2) through (5).

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

201 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
202 4, Annexation.

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

204 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
205 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

207 (B) after a 90-day period beginning on the date the commission receives notice meeting
208 the requirements of Subsection (5)(b)(ii) from the city or town.

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

210 (A) that the city or town will enact or repeal a tax under this part;

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

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

213 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of

214 the tax.

215 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
216 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

217 (A) that begins after the effective date of the imposition of the tax; and

218 (B) if the billing period for the transaction begins before the effective date of the
219 enactment of the tax under this section.

220 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
221 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

222 (A) that began before the effective date of the repeal of the tax; and

223 (B) if the billing period for the transaction begins before the effective date of the repeal
224 of the tax imposed under this section.

225 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

226 (A) Subsection 59-12-103(1)(b);

227 (B) Subsection 59-12-103(1)(c);

228 (C) Subsection 59-12-103(1)(d);

229 (D) Subsection 59-12-103(1)(e);

230 (E) Subsection 59-12-103(1)(f);

231 (F) Subsection 59-12-103(1)(g);

232 (G) Subsection 59-12-103(1)(h);

233 (H) Subsection 59-12-103(1)(i);

234 (I) Subsection 59-12-103(1)(j); or

235 (J) Subsection 59-12-103(1)(k).

236 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
237 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
238 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

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

240 (B) beginning 60 days after the effective date of the enactment or repeal under
241 Subsection (5)(b)(i).

242 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
243 the commission may by rule define the term "catalogue sale."

244 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs

245 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
246 part for an annexing area, the enactment or repeal shall take effect:

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

248 (B) after a 90-day period beginning on the date the commission receives notice meeting
249 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

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

251 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
252 repeal a tax under this part for the annexing area;

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

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

255 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

256 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
257 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

258 (A) that begins after the effective date of the imposition of the tax; and

259 (B) if the billing period for the transaction begins before the effective date of the
260 enactment of the tax under this section.

261 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
262 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

263 (A) that began before the effective date of the repeal of the tax; and

264 (B) if the billing period for the transaction begins before the effective date of the repeal
265 of the tax imposed under this section.

266 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

267 (A) Subsection 59-12-103(1)(b);

268 (B) Subsection 59-12-103(1)(c);

269 (C) Subsection 59-12-103(1)(d);

270 (D) Subsection 59-12-103(1)(e);

271 (E) Subsection 59-12-103(1)(f);

272 (F) Subsection 59-12-103(1)(g);

273 (G) Subsection 59-12-103(1)(h);

274 (H) Subsection 59-12-103(1)(i);

275 (I) Subsection 59-12-103(1)(j); or

276 (J) Subsection 59-12-103(1)(k).

277 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
278 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
279 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

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

281 (B) beginning 60 days after the effective date of the enactment or repeal under
282 Subsection (5)(e)(i).

283 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
284 the commission may by rule define the term "catalogue sale."

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

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

289 (ii) receive from the county legislative body:

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

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

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

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

303 (B) written notice that the county legislative body will submit an opinion question to
304 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
305 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
306 that part.

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

- 311 (A) a 12-month period;
- 312 (B) the next regular primary election; or
- 313 (C) the next regular general election.

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

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

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

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

332 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
333 provide a city or town legislative body described in Subsection (6)(a) a written resolution
334 passed by the county legislative body stating that the county legislative body is not seeking to
335 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
336 Zoological Organizations or Facilities, which permits the city or town legislative body to
337 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

338 Section 4. **Effective date.**

339 This bill takes effect on May 3, 2004, except that the amendments to Section

340 59-12-1402 (Effective 07/01/04) take effect on July 1, 2004.

Legislative Review Note
as of 12-5-03 9:11 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel