

RESORT COMMUNITIES TAX AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill modifies the Resort Communities Tax part.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ requires a municipality to file with the State Tax Commission a form containing information regarding lodging capacity within the incorporated boundaries of the municipality;
 - ▶ provides procedures and requirements for a municipality to file the form with the State Tax Commission;
 - ▶ requires the State Tax Commission to provide written notice to a municipality if the municipality has a transient room capacity that is less than 66% of the municipality's permanent census population;
 - ▶ provides procedures and requirements for the State Tax Commission to provide the written notice to a municipality;
 - ▶ provides that a municipality that receives the written notice from the State Tax Commission may not impose a resort communities tax under certain circumstances;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 This bill provides an effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-12-401 (Superseded 07/01/04)**, as last amended by Chapter 253, Laws of Utah 200033 **59-12-401 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 200334 **59-12-402 (Superseded 07/01/04)**, as last amended by Chapters 253 and 319, Laws of

35 Utah 2000

36 **59-12-402 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003

37 ENACTS:

38 **59-12-405**, Utah Code Annotated 195339

40 *Be it enacted by the Legislature of the state of Utah:*41 Section 1. Section **59-12-401 (Superseded 07/01/04)** is amended to read:42 **59-12-401 (Superseded 07/01/04). Resort communities tax -- Base -- Rate --**43 **Collection fees.**44 (1) (a) Except as provided in Subsection (1)(b), and in addition to other sales **§ AND USE §**
44a taxes, a45 city or town in which the transient room capacity as defined in Section 59-12-405 is greater46 than or equal to 66% of the municipality's permanent census population may impose a sales **§ AND**46a **USE §** tax

47 of up to 1% on the transactions described in Subsection 59-12-103(1).

48 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
49 section on:

50 (i) wholesale sales;

51 (ii) the sale of a single item for which consideration paid is \$2,500 or more;

52 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
53 are exempt from taxation under Section 59-12-104; and54 (iv) any amounts paid or charged by a vendor that collects a tax under Subsection
55 59-12-107(1)(b).56 (2) (a) An amount equal to the total of any costs incurred by the state in connection
57 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
58 the state from its collection fees received in connection with the implementation of Subsection

59 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
60 provided for in Subsection (1).

61 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
62 those cities and towns according to the amount of revenue the respective cities and towns
63 generate in that year through imposition of that tax.

64 Section 2. Section **59-12-401 (Effective 07/01/04)** is amended to read:

65 **59-12-401 (Effective 07/01/04). Resort communities tax -- Base -- Rate --**
66 **Collection fees.**

67 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and in addition
68 to other sales **§ AND USE §** taxes, a city or town in which the transient room capacity as defined in
68a Section
69 59-12-405 is greater than or equal to 66% of the municipality's permanent census population
70 may impose a sales **§ AND USE §** tax of up to 1% on the transactions described in Subsection
70a 59-12-103(1)
71 located within the city or town.

72 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
73 section on:

74 (i) the sale of:

75 (A) a motor vehicle;

76 (B) an aircraft;

77 (C) a watercraft;

78 (D) a modular home;

79 (E) a manufactured home; or

80 (F) a mobile home; or

81 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
82 are exempt from taxation under Section 59-12-104.

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

85 (2) (a) An amount equal to the total of any costs incurred by the state in connection
86 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
87 the state from its collection fees received in connection with the implementation of Subsection
88 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
89 provided for in Subsection (1).

90 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
91 those cities and towns according to the amount of revenue the respective cities and towns
92 generate in that year through imposition of that tax.

93 Section 3. Section **59-12-402 (Superseded 07/01/04)** is amended to read:

94 **59-12-402 (Superseded 07/01/04). Additional resort communities sales tax -- Base**
95 **-- Rate -- Collection fees -- Resolution and voter approval requirements -- Election**
96 **requirements -- Notice requirements -- Ordinance requirements.**

97 (1) (a) Except as provided in Subsection (1)(b), and subject to the limitations of
98 Subsections (2) through (6), the governing body of a municipality in which the transient room
99 capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's
100 permanent census population may, in addition to the sales tax authorized under Section
101 59-12-401, impose an additional resort communities sales tax in an amount that is less than or
102 equal to 1/2% on the transactions described in Subsection 59-12-103(1).

103 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
104 impose a tax under this section on:

- 105 (i) wholesale sales;
- 106 (ii) the sale of a single item for which consideration paid is \$2,500 or more;
- 107 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
108 are exempt from taxation under Section 59-12-104; and
- 109 (iv) any amounts paid or charged by a vendor that collects a tax under Subsection
110 59-12-107(1)(b).

111 (2) (a) An amount equal to the total of any costs incurred by the state in connection
112 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
113 the state from its collection fees received in connection with the implementation of Subsection
114 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
115 provided for in Subsection (1).

116 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
117 those cities and towns according to the amount of revenue the respective cities and towns
118 generate in that year through imposition of that tax.

119 (3) To impose an additional resort communities sales tax under this section, the
120 governing body of the municipality shall:

121 (a) pass a resolution approving the tax; and
 122 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
 123 in Subsection (4).

124 (4) To obtain voter approval for an additional resort communities sales tax under
 125 Subsection (3)(b), a municipality shall:

126 (a) hold the additional resort communities sales tax election during:

- 127 (i) a regular general election; or
- 128 (ii) a municipal general election; and

129 (b) publish notice of the election:

- 130 (i) 15 days or more before the day on which the election is held; and
- 131 (ii) in a newspaper of general circulation in the municipality.

132 (5) An ordinance approving an additional resort communities sales tax under this
 133 section shall provide an effective date for the tax as provided in Section 59-12-403.

134 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
 135 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
 136 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
 137 Section 10-1-203.

138 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
 139 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
 140 one class of businesses based on gross receipts pursuant to Section 10-1-203.

141 Section 4. Section **59-12-402 (Effective 07/01/04)** is amended to read:

142 **59-12-402 (Effective 07/01/04). Additional resort communities sales tax -- Base --**
 143 **Rate -- Collection fees -- Resolution and voter approval requirements -- Election**
 144 **requirements -- Notice requirements -- Ordinance requirements.**

145 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and subject to
 146 the limitations of Subsections (2) through (6), the governing body of a municipality in which
 147 the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of
 148 the municipality's permanent census population may, in addition to the sales tax authorized
 149 under Section 59-12-401, impose an additional resort communities sales tax in an amount that
 150 is less than or equal to 1/2% on the transactions described in Subsection 59-12-103(1) located
 151 within the municipality.

152 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
153 impose a tax under this section on:

154 (i) the sale of:

155 (A) a motor vehicle;

156 (B) an aircraft;

157 (C) a watercraft;

158 (D) a modular home;

159 (E) a manufactured home; or

160 (F) a mobile home; or

161 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
162 are exempt from taxation under Section 59-12-104.

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

165 (2) (a) An amount equal to the total of any costs incurred by the state in connection
166 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
167 the state from its collection fees received in connection with the implementation of Subsection
168 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
169 provided for in Subsection (1).

170 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
171 those cities and towns according to the amount of revenue the respective cities and towns
172 generate in that year through imposition of that tax.

173 (3) To impose an additional resort communities sales tax under this section, the
174 governing body of the municipality shall:

175 (a) pass a resolution approving the tax; and

176 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
177 in Subsection (4).

178 (4) To obtain voter approval for an additional resort communities sales tax under
179 Subsection (3)(b), a municipality shall:

180 (a) hold the additional resort communities sales tax election during:

181 (i) a regular general election; or

182 (ii) a municipal general election; and

183 (b) publish notice of the election:

184 (i) 15 days or more before the day on which the election is held; and

185 (ii) in a newspaper of general circulation in the municipality.

186 (5) An ordinance approving an additional resort communities sales tax under this
187 section shall provide an effective date for the tax as provided in Section 59-12-403.

188 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
189 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
190 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
191 Section 10-1-203.

192 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
193 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
194 one class of businesses based on gross receipts pursuant to Section 10-1-203.

195 Section 5. Section **59-12-405** is enacted to read:

196 **59-12-405. Definitions -- Municipality filing requirements for lodging unit**
197 **capacity -- Failure to meet eligibility requirements -- Notice to municipality --**
198 **Municipality authority to impose tax.**

199 (1) As used in this section:

200 (a) "high-occupancy lodging unit" means each bedroom in a:

201 (i) hostel; or

202 (ii) a unit similar to a hostel as determined by the commission by rule;

203 (b) "high-occupancy lodging unit capacity of a municipality" means the product of:

204 (i) the total number of high-occupancy lodging units within the incorporated
205 boundaries of a municipality on the first day of the calendar quarter during which the
206 municipality files the form described in Subsection (3); and

207 (ii) four;

208 (c) "recreational lodging unit" means each site in a:

209 (i) campground that:

210 (A) is issued a business license by the municipality in which the campground is
211 located; and

212 (B) provides the following hookups:

213 (I) water;

214 (II) sewer; and
215 (III) electricity; or
216 (ii) § [a] § recreational vehicle park that provides the following hookups:
217 (I) water;
218 (II) sewer; and
219 (III) electricity; or
220 (iii) § [a] § unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by
221 rule;
222 (d) "recreational lodging unit capacity of a municipality" means the product of:
223 (i) the total number of recreational lodging units within the incorporated boundaries of
224 a municipality on the first day of the calendar quarter during which the municipality files the
225 form described in Subsection (3); and
226 (ii) four;
227 (e) "special lodging unit" means a lodging unit:
228 (i) that is a:
229 (A) high-occupancy lodging unit;
230 (B) recreational lodging unit; or
231 (C) standard lodging unit;
232 (ii) for which the commission finds that in determining the capacity of the lodging unit
233 the lodging unit should be multiplied by a number other than a number described in:
234 (A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);
235 (B) for a recreational lodging unit, Subsection (1)(d)(ii); or
236 (C) for a standard lodging unit, Subsection (1)(i)(ii); and
237 (iii) for which the municipality in which the lodging unit is located files a written
238 request with the commission for the finding described in Subsection (1)(e)(ii);
239 (f) "special lodging unit capacity of a municipality" means the sum of the special
240 lodging unit numbers for all of the special lodging units within the incorporated boundaries of
241 a municipality on the first day of the calendar quarter during which the municipality files the
242 form described in Subsection (3);
243 (g) "special lodging unit number" means the number by which the commission finds
244 that a special lodging unit should be multiplied in determining the capacity of the special

- 245 lodging unit;
- 246 (h) "standard lodging unit" means each bedroom in:
- 247 (i) a hotel;
- 248 (ii) a motel;
- 249 (iii) a bed and breakfast establishment;
- 250 (iv) an inn;
- 251 (v) a condominium that is:
- 252 (A) part of a rental pool; or
- 253 (B) regularly rented out for a time period of less than 30 consecutive days; or
- 254 (vi) a property used as a residence that is:
- 255 (A) part of a rental pool; or
- 256 (B) regularly rented out for a time period of less than 30 consecutive days; or
- 257 (vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the
- 258 commission by rule;
- 259 (i) "standard lodging unit capacity of a municipality" means the product of:
- 260 (i) the total number of standard lodging units within the incorporated boundaries of a
- 261 municipality on the first day of the calendar quarter during which the municipality files the
- 262 form described in Subsection (3); and
- 263 (ii) three; and
- 264 (j) "transient room capacity" means the sum of:
- 265 (i) the high-occupancy lodging unit capacity of a municipality;
- 266 (ii) the recreational lodging unit capacity of a municipality;
- 267 (iii) the special lodging unit capacity of a municipality; and
- 268 (iv) the standard lodging unit capacity of a municipality.
- 269 (2) A municipality that imposes a tax under this part shall provide the commission the
- 270 following information as provided in this section:
- 271 (a) the high-occupancy lodging unit capacity of the municipality;
- 272 (b) the recreational lodging unit capacity of the municipality;
- 273 (c) the special lodging unit capacity of the municipality; and
- 274 (d) the standard lodging unit capacity of the municipality.
- 275 (3) A municipality shall file with the commission the information required by

276 Subsection (1):

277 (a) on a form provided by the commission; and

278 (b) on or before:

279 (i) for a municipality that is required by Section 59-12-403 to provide notice to the
280 commission, the day on which the municipality provides the notice required by Section
281 59-12-403 to the commission; or

282 (ii) for a municipality that is not required by Section 59-12-403 to provide notice to the
283 commission, July 1 of each year.

284 (4) If the commission determines that a municipality that files the form described in
285 Subsection (3) has a transient room capacity that is less than 66% of the municipality's
286 permanent census population, the commission shall notify the municipality in writing:

287 (a) that the municipality's transient room capacity is less than 66% of the municipality's
288 permanent census population; and

289 (b) (i) for a municipality that is required by Section 59-12-403 to provide notice to the
290 commission, within 30 days after the day on which the municipality provides the notice to the
291 commission; or

292 (ii) for a municipality that is not required by Section 59-12-403 to provide notice to the
293 commission, on or before September 1.

294 (5) (a) For a municipality that does not impose a tax under Section 59-12-401 on the
295 day on which the municipality files the form described in Subsection (3), if the commission
296 provides written notice described in Subsection (4) to the municipality, the municipality may
297 not impose a tax under this part until the municipality meets the requirements of this part to
298 enact the tax.

299 (b) For a municipality that is not required by Section 59-12-403 to provide notice to the
300 commission, if the commission provides written notice described in Subsection (4) to the
301 municipality for two consecutive calendar years, the municipality may not impose a tax under
302 this part:

303 (i) beginning on July 1 of the year after the year during which the commission provided
304 written notice described in Subsection (4):

305 (A) to the municipality; and

306 (B) for the second consecutive calendar year; and

307 (ii) until the municipality meets the requirements of this part to enact the tax.
308 Section 6. **Effective date.**
309 This bill takes effect on May 3, 2004, except that the amendments in this bill to
310 Sections 59-12-401 (Effective 07/01/04) and 59-12-402 (Effective 07/01/04) take effect on July
311 1, 2004.

Legislative Review Note
as of 11-20-03 2:38 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-10-03 11:11 AM

The Revenue and Taxation Interim Committee recommended this bill.

Fiscal Note
Bill Number SB0013

Resort Communities Tax Amendments

19-Jan-04

10:06 AM

State Impact

Passage of this bill could have a negative impact on local government revenue in the long run. The level of the impact is indeterminable at this time.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst