

1 **TOURISM, RECREATION, CULTURAL, AND**
2 **CONVENTION FACILITIES TAX**
3 **AMENDMENTS**

4 2005 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Howard A. Stephenson**

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Tourism, Recreation, Cultural, and Convention Facilities Tax part.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides a definition;
- 14 ▶ grants rulemaking authority to the State Tax Commission;
- 15 ▶ amends the purposes for which revenue from the imposition of a tax under the
- 16 Tourism, Recreation, Cultural, and Convention Facilities Tax part may be used;
- 17 ▶ requires the Office of the Legislative Auditor General to conduct an audit beginning
- 18 in 2006 and every four years after 2006 to determine whether revenue from the
- 19 imposition of a tax under the Tourism, Recreation, Cultural, and Convention
- 20 Facilities Tax part is used as required by statute;
- 21 ▶ requires the Office of the Legislative Auditor General to make a report to the:
- 22 • Legislative Audit Subcommittee; and
- 23 • Revenue and Taxation Interim Committee; and
- 24 ▶ makes technical changes.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 This bill takes effect on July 1, 2005.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-12-602**, as last amended by Chapter 248, Laws of Utah 1995

32 **59-12-603**, as last amended by Chapters 156 and 255, Laws of Utah 2004

33 ENACTS:

34 **59-12-605**, Utah Code Annotated 1953

35

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

37 Section 1. Section **59-12-602** is amended to read:

38 **59-12-602. Definitions.**

39 As used in this part:

40 (1) "Convention facility" means any publicly owned or operated convention center,
41 sports arena, or other facility at which conventions, conferences, and other gatherings are held
42 and whose primary business or function is to host such conventions, conferences, and other
43 gatherings.

44 (2) "Cultural facility" means any publicly owned or operated museum, theater, art
45 center, music hall, or other cultural or arts facility.

46 (3) (a) "Predominantly used by tourists" means that 2/3 or more of the persons who are
47 patrons of a convention facility, cultural facility, recreation facility, or tourist facility reside
48 outside the boundaries of the county in which the convention facility, cultural facility,
49 recreational facility, or tourist facility is located.

50 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
51 commission may make rules defining "patron."

52 [~~3~~] (4) "Recreation facility" or "tourist facility" means any publicly owned or
53 operated park, campground, marina, dock, golf course, water park, historic park, monument,
54 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

55 [~~4~~] (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda
56 fountain, or fast-food service where food is prepared for immediate consumption.

57 (b) "Restaurant" does not include:

58 (i) any retail establishment whose primary business or function is the sale of fuel or

59 food items for off-premise, but not immediate, consumption; and

60 (ii) a theater that sells food items, but not a dinner theater.

61 Section 2. Section **59-12-603** is amended to read:

62 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
 63 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
 64 **of tax or tax rate change -- Effective date -- Notice requirements.**

65 (1) In addition to any other taxes, a county legislative body may, as provided in this
 66 part, impose a tax as follows:

67 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on
 68 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and
 69 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
 70 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

71 (ii) beginning on or after January 1, 1999, a county legislative body of any county
 72 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under
 73 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of
 74 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for
 75 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to
 76 a repair or an insurance agreement;

77 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all
 78 sales of prepared foods and beverages that are sold by restaurants; and

79 (c) a county legislative body of any county may impose a tax of not to exceed .5% on
 80 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

81 (2) ~~[The revenue]~~ Revenue from the imposition of the taxes provided for in
 82 Subsections (1)(a) through (c) ~~[may be used for the purposes of]:~~

83 (a) that is pledged before July 1, 2005, as security for a bond, note, or other evidence of
 84 indebtedness in accordance with Subsection (4), may be used for:

85 (i) financing tourism promotion[;]; and

86 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and
 87 convention facilities as defined in Section 59-12-602[;];

88 (b) that is pledged on or after July 1, 2005, as security for a bond, note, or other
 89 evidence of indebtedness in accordance with Subsection (4), may be used for:

- 90 (i) financing tourism:
- 91 (A) promotion; or
- 92 (B) advertising;
- 93 (ii) the development, operation, and maintenance of a:
- 94 (A) convention facility if that convention facility is predominantly used by tourists;
- 95 (B) cultural facility if that cultural facility is predominantly used by tourists;
- 96 (C) recreation facility if that recreation facility is predominantly used by tourists; or
- 97 (D) tourist facility if that tourist facility is predominantly used by tourists; or
- 98 (iii) a combination of the purposes described in Subsections (2)(b)(i) and (ii); or
- 99 (c) that is not pledged as security for a bond, note, or other evidence of indebtedness,

100 may be used for:

- 101 (i) financing tourism:
- 102 (A) promotion; or
- 103 (B) advertising;
- 104 (ii) the development, operation, and maintenance of a:
- 105 (A) convention facility if that convention facility is predominantly used by tourists;
- 106 (B) cultural facility if that cultural facility is predominantly used by tourists;
- 107 (C) recreation facility if that recreation facility is predominantly used by tourists; or
- 108 (D) tourist facility if that tourist facility is predominantly used by tourists; or
- 109 (iii) a combination of the purposes described in Subsections (2)(c)(i) and (ii).

110 (3) The tax imposed under Subsection (1)(c) shall be in addition to the tax imposed
111 under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

112 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other
113 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal
114 Bond Act, [~~to finance tourism, recreation, cultural, and convention facilities~~] as provided in
115 Subsection (2).

116 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
117 shall annually adopt an ordinance imposing the tax.

118 (b) The ordinance under Subsection (5)(a) shall include provisions substantially the
119 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
120 those items and sales described in Subsection (1).

121 (c) The name of the county as the taxing agency shall be substituted for that of the state
122 where necessary, and an additional license is not required if one has been or is issued under
123 Section 59-12-106.

124 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
125 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
126 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
127 amendments to Part 1, Tax Collection.

128 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
129 shall be administered, collected, and enforced in accordance with:

130 (A) the same procedures used to administer, collect, and enforce the tax under:

131 (I) Part 1, Tax Collection; or

132 (II) Part 2, Local Sales and Use Tax Act; and

133 (B) Chapter 1, General Taxation Policies.

134 (ii) Notwithstanding Subsection (7)(a)(i), a tax under this part is not subject to:

135 (A) Sections 59-12-107.1 through 59-12-107.3;

136 (B) Subsections 59-12-205(2) through (9); or

137 (C) Sections 59-12-207.1 through 59-12-207.4.

138 (b) Except as provided in Subsection (7)(c):

139 (i) for a tax under this part other than the tax under Subsection (1)(a)(ii), the
140 commission shall distribute the revenues to the county imposing the tax; and

141 (ii) for a tax under Subsection (1)(a)(ii), the commission shall distribute the revenues
142 according to the distribution formula provided in Subsection (8).

143 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the
144 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided
145 in Section 59-12-206.

146 (8) The commission shall distribute the revenues generated by the tax under Subsection
147 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following
148 formula:

149 (a) the commission shall distribute 70% of the revenues based on the percentages
150 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the
151 total revenues collected by all counties under Subsection (1)(a)(ii); and

152 (b) the commission shall distribute 30% of the revenues based on the percentages
153 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)
154 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

155 (9) (a) For purposes of this Subsection (9):

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

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

159 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
160 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
161 change shall take effect:

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

163 (B) after a 90-day period beginning on the date the commission receives notice meeting
164 the requirements of Subsection (9)(b)(ii) from the county.

165 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

166 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

167 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

168 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

169 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
170 (9)(b)(ii)(A), the rate of the tax.

171 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
172 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
173 first billing period:

174 (A) that begins after the effective date of the enactment of the tax or the tax rate
175 increase; and

176 (B) if the billing period for the transaction begins before the effective date of the
177 enactment of the tax or the tax rate increase imposed under Subsection (1).

178 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
179 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
180 billing period:

181 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
182 and

183 (B) if the billing period for the transaction begins before the effective date of the repeal
184 of the tax or the tax rate decrease imposed under Subsection (1).

185 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

186 (A) Subsection 59-12-103(1)(e);

187 (B) Subsection 59-12-103(1)(i); or

188 (C) Subsection 59-12-103(1)(k).

189 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
190 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
191 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

193 (B) after a 90-day period beginning on the date the commission receives notice meeting
194 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

195 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

196 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
197 repeal, or change in the rate of a tax under this part for the annexing area;

198 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

199 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

200 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
201 (9)(d)(ii)(A), the rate of the tax.

202 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
203 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
204 first billing period:

205 (A) that begins after the effective date of the enactment of the tax or the tax rate
206 increase; and

207 (B) if the billing period for the transaction begins before the effective date of the
208 enactment of the tax or the tax rate increase imposed under Subsection (1).

209 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
210 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
211 billing period:

212 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
213 and

214 (B) if the billing period for the transaction begins before the effective date of the repeal
215 of the tax or the tax rate decrease imposed under Subsection (1).

216 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

217 (A) Subsection 59-12-103(1)(e);

218 (B) Subsection 59-12-103(1)(i); or

219 (C) Subsection 59-12-103(1)(k).

220 Section 3. Section **59-12-605** is enacted to read:

221 **59-12-605. Audit by Office of the Legislative Auditor General -- Reporting to the**
222 **Legislative Audit Subcommittee and the Revenue and Taxation Interim Committee.**

223 (1) Beginning in 2006, and every four years after 2006, the Office of the Legislative
224 Auditor General shall in accordance with Section 36-12-15 conduct an audit to determine
225 whether each county that imposes a tax under this part uses the revenue from the imposition of
226 the tax in accordance with Subsections 59-12-603(2) and (4).

227 (2) In addition to the report to the Legislative Audit Subcommittee required by Section
228 36-12-8, the Office of the Legislative Auditor General shall report its findings and
229 recommendations on the audit required by Subsection (1) to the Revenue and Taxation Interim
230 Committee on or before the November interim meeting of the year in which the Office of the
231 Legislative Auditor General completes the audit.

232 Section 4. **Effective date.**

233 This bill takes effect on July 1, 2005.

Legislative Review Note
as of 1-21-05 2:22 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0137

Tourism Recreation, Cultural, and Convention. Facilities Tax Amendments 31-Jan-05
12:21 PM

State Impact

Provisions of this bill can be handled within existing budgets. Statutorily requiring an audit every four years is estimated to require an equivalent of one FTE be dedicated to this audit. The impact on current budgets will be dependent on the number of assignments made by the Legislative Audit Subcommittee

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst