

1 **SALES AND USE TAX - HIGHWAYS AND**
2 **PUBLIC TRANSPORTATION AMENDMENTS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John Dougall**

6 Senate Sponsor: Mark B. Madsen

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Sales and Use Tax Act relating to highways and public
11 transportation.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that a county, city, or town is not required to be located within a transit
15 district to impose certain local option sales and use taxes for highways, public
16 transportation, and fixed guideways;

17 ▶ repeals the requirement that a project relating to a fixed guideway system or a
18 system for public transit be owned and operated by a public transit district in order
19 for a county to expend revenues generated by the tax under Title 59, Chapter 12,
20 Part 15, County Option Sales and Use Tax for Highways, Fixed Guideways, or
21 Systems for Public Transit, to fund that project; and

22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2007.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2006

30 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006

31 **59-12-1503**, as last amended by Chapter 253, Laws of Utah 2006



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

34 Section 1. Section **59-12-501** is amended to read:

35 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

36 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town [~~within a~~
37 ~~transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,]~~
38 may impose a sales and use tax of up to .25% on the transactions described in Subsection
39 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

40 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
41 under this section on:

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

44 (B) any amounts paid or charged by a seller that collects a tax under Subsection
45 59-12-107(1)(b).

46 (b) For purposes of this Subsection (1), the location of a transaction shall be
47 determined in accordance with Section 59-12-207.

48 (c) [(†)] A county, city, or town may impose a tax under this section only if the
49 governing body of the county, city, or town, by resolution, submits the proposal to all the
50 qualified voters within the county, city, or town for approval at a general or special election
51 conducted in the manner provided by statute.

52 [~~(ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an~~
53 ~~area to a public transit district or local district and approving for that annexed area the sales and~~
54 ~~use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for~~
55 ~~the area to be annexed to the public transit district or local district.]~~

56 [(2) (a) If only a portion of a county is included within a public transit district, the
57 proposal may be submitted only to the qualified voters residing within the boundaries of the
58 proposed or existing public transit district.]

59 ~~[(b)]~~ (2) (a) Notice of any such election shall be given by the county, city, or town
60 governing body 15 days in advance in the manner prescribed by statute.

61 ~~[(c)]~~ (b) If a majority of the voters voting in such election approve the proposal, it shall
62 become effective on the date provided by the county, city, or town governing body.

63 (3) This section may not be construed to require an election in jurisdictions where
64 voters have previously approved a public transit sales or use tax.

65 Section 2. Section **59-12-502** is amended to read:

66 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
67 **and interstate improvements -- Base -- Rate -- Voter approval.**

68 (1) (a) (i) In addition to other sales and use taxes, including the public transit district tax
69 authorized by Section 59-12-501, a county, city, or town [~~within a transit district organized~~
70 ~~under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,~~] may impose a sales and
71 use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the
72 county, city, or town, to fund a fixed guideway and expanded public transportation system.

73 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
74 under this section on:

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

77 (B) any amounts paid or charged by a seller that collects a tax under Subsection
78 59-12-107(1)(b).

79 (b) For purposes of this Subsection (1), the location of a transaction shall be
80 determined in accordance with Section 59-12-207.

81 (c) (i) A county, city, or town may impose the tax under this section only if the
82 governing body of the county, city, or town submits, by resolution, the proposal to all the
83 qualified voters within the county, city, or town for approval at a general or special election
84 conducted in the manner provided by statute.

85 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
86 or town governing body 15 days in advance in the manner prescribed by statute.

87 (2) If the majority of the voters voting in this election approve the proposal, it shall
88 become effective on the date provided by the county, city, or town governing body.

89 (3) (a) This section may not be construed to require an election in jurisdictions where

90 voters have previously approved a public transit sales or use tax.

91 (b) This section shall be construed to require an election to impose the sales and use
92 tax authorized by this section, including jurisdictions where the voters have previously
93 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
94 construed to affect the sales and use tax authorized by Section 59-12-501.

95 (4) No public funds shall be spent to promote the required election.

96 (5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the
97 revenues generated by the tax imposed under this section by any county of the first class:

98 (i) ~~§~~ → [75%] 80% ← ~~§~~ shall be allocated to fund a fixed guideway and expanded public
98a transportation

99 system; and

100 (ii) except as provided in Subsection (5)(b), ~~§~~ → [25%] 20% ← ~~§~~ shall be allocated to fund
100a new

101 construction, major renovations, and improvements to Interstate 15 and state highways within
102 the county and to pay any debt service and bond issuance costs related to those projects.

103 (b) Notwithstanding the designated use of revenues in Subsection (1), beginning on
104 July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not
105 to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to
106 reconfiguring railroad curves within that county to reduce rail congestion.

107 (6) A county of the first class may, through an interlocal agreement, authorize the
108 deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public
109 Transportation System Tax Highway Fund created in Section 72-2-121.

110 Section 3. Section **59-12-1503** is amended to read:

111 **59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**
112 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
113 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

114 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this
115 part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

116 (i) on the transactions:

117 (A) described in Subsection 59-12-103(1); and

118 (B) within the county, including the cities and towns within the county;

119 (ii) for the purposes determined by the county legislative body in accordance with

120 Subsection (2); and

- 121 (iii) in addition to any other sales and use tax authorized under this chapter.
- 122 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
123 tax under this section on:
- 124 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
125 are exempt from taxation under Section 59-12-104; or
- 126 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
127 59-12-107(1)(b).
- 128 (c) For purposes of this Subsection (1), the location of a transaction shall be
129 determined in accordance with Section 59-12-207.
- 130 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
131 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
132 revenues the county will receive from the tax under this part that will be allocated to fund one
133 or more of the following:
- 134 (i) a project or service relating to a fixed guideway system~~[-(A)]~~ for the portion of the
135 project or service that is performed within the county; ~~[and]~~
136 ~~[(B) if the fixed guideway system is owned and operated by a public transit district~~
137 ~~organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;]~~
- 138 (ii) a project or service relating to a system for public transit~~[-(A)]~~ for the portion of
139 the project or service that is performed within the county; ~~[and]~~ or
140 ~~[(B) if the system for public transit is owned and operated by a public transit district~~
141 ~~organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or]~~
- 142 (iii) the following relating to a state highway within the county:
- 143 (A) a project beginning on or after the day on which a county legislative body imposes
144 a tax under this part only within the county involving:
- 145 (I) new construction;
- 146 (II) a renovation;
- 147 (III) an improvement; or
- 148 (IV) an environmental study;
- 149 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
- 150 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
151 through (IV).

152 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
153 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
154 tax under this part.

155 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
156 tax under this part do not include amounts retained by the commission in accordance with
157 Subsection (8).

158 (3) (a) Before imposing a tax under this part, a county legislative body shall:

159 (i) obtain approval from a majority of the members of the county legislative body to:

160 (A) impose the tax; and

161 (B) allocate the revenues the county will receive from the tax in accordance with the
162 resolution adopted in accordance with Subsection (2); and

163 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
164 voters voting on the imposition of the tax so that each registered voter has the opportunity to
165 express the registered voter's opinion on whether a tax should be imposed under this part.

166 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
167 specified in the resolution:

168 (i) adopted in accordance with Subsection (2); and

169 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

170 (c) The election required by this Subsection (3) shall be held:

171 (i) (A) at a regular general election; and

172 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
173 governing regular general elections; or

174 (ii) (A) at a special election called by the county legislative body;

175 (B) only on the date of a municipal general election provided in Subsection
176 20A-1-202(1); and

177 (C) in accordance with the procedures and requirements of Section 20A-1-203.

178 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
179 of the county's registered voters voting on the imposition of the tax have voted in favor of the
180 imposition of the tax in accordance with Subsection (3), the county legislative body may
181 impose the tax by a majority vote of all of the members of the county legislative body.

182 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues

183 generated by the tax shall be:

184 (i) allocated in accordance with the allocations specified in the resolution under
185 Subsection (2); and

186 (ii) expended as provided in this part.

187 (5) If a county legislative body allocates revenues generated by the tax for a project
188 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
189 shall:

190 (a) obtain approval from the Transportation Commission to complete the project; and

191 (b) enter into an interlocal agreement:

192 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

193 (ii) with the Department of Transportation; and

194 (iii) to complete the project.

195 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
196 legislative body seeks to change the allocation of the tax specified in the resolution under
197 Subsection (2), the county legislative body may change the allocation of the tax by:

198 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
199 revenues the county will receive from the tax under this part that will be allocated to fund one
200 or more of the systems or projects described in Subsection (2);

201 (ii) obtaining approval to change the allocation of the tax from a majority of the
202 members of the county legislative body; and

203 (iii) (A) submitting an opinion question to the county's registered voters voting on
204 changing the allocation of the tax so that each registered voter has the opportunity to express
205 the registered voter's opinion on whether the allocation of the tax should be changed; and

206 (B) obtaining approval to change the allocation of the tax from a majority of the
207 county's registered voters voting on changing the allocation of the tax.

208 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
209 specified in the resolution:

210 (A) adopted in accordance with Subsection (6)(a)(i); and

211 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

212 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
213 requirements of Title 11, Chapter 14, Local Government Bonding Act.

214 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
215 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
216 transmitted:

- 217 (A) by the commission;
- 218 (B) to the county;
- 219 (C) monthly; and
- 220 (D) by electronic funds transfer.

221 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
222 transfer the revenues described in Subsection (7)(a)(i):

- 223 (A) directly to a public transit district:
 - 224 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
 - 225 (II) designated by the county; and
- 226 (B) by providing written notice to the commission:
 - 227 (I) requesting the revenues to be transferred directly to a public transit district as
 - 228 provided in Subsection (7)(a)(ii)(A); and
 - 229 (II) designating the public transit district to which the revenues are requested to be
 - 230 transferred.

231 (b) Revenues generated by a tax under this part that are allocated for a purpose
232 described in Subsection (2)(a)(iii) shall be:

- 233 (i) deposited into the State Highway Projects Within Counties Fund created by Section
234 72-2-121.1; and
- 235 (ii) expended as provided in Section 72-2-121.1.

236 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
237 shall be administered, collected, and enforced in accordance with:

- 238 (A) the same procedures used to administer, collect, and enforce the tax under:
 - 239 (I) Part 1, Tax Collection; or
 - 240 (II) Part 2, Local Sales and Use Tax Act; and
- 241 (B) Chapter 1, General Taxation Policies.

242 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
243 Subsections 59-12-205(2) through (7).

244 (b) (i) The commission may retain an amount of tax collected under this part of not to

245 exceed the lesser of:

246 (A) 1.5%; or

247 (B) an amount equal to the cost to the commission of administering this part.

248 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

249 (A) placed in the Sales and Use Tax Administrative Fees Account; and

250 (B) used as provided in Subsection 59-12-206(2).

251 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a
252 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

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

256 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

257 (A) that the county will enact or repeal a tax under this part;

258 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

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

260 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

261 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
262 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

263 (A) that begins after the effective date of the enactment of the tax; and

264 (B) if the billing period for the transaction begins before the effective date of the
265 enactment of the tax under Subsection (1).

266 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
267 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

269 (B) if the billing period for the transaction begins before the effective date of the repeal
270 of the tax imposed under Subsection (1).

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

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

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

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

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

- 276 (E) Subsection 59-12-103(1)(f);
- 277 (F) Subsection 59-12-103(1)(g);
- 278 (G) Subsection 59-12-103(1)(h);
- 279 (H) Subsection 59-12-103(1)(i);
- 280 (I) Subsection 59-12-103(1)(j); or
- 281 (J) Subsection 59-12-103(1)(k).

282 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
283 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
284 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

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

286 (B) beginning 60 days after the effective date of the enactment or repeal under
287 Subsection (9)(a)(i).

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

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

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

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

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

297 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
298 or repeal of a tax under this part for the annexing area;

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

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

301 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).

302 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
303 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

304 (A) that begins after the effective date of the enactment of the tax; and

305 (B) if the billing period for the transaction begins before the effective date of the
306 enactment of the tax under Subsection (1).

307 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
308 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

310 (B) if the billing period for the transaction begins before the effective date of the repeal
311 of the tax imposed under Subsection (1).

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

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

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

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

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

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

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

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

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

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

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

323 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
324 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
325 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

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

327 (B) beginning 60 days after the effective date of the enactment or repeal under
328 Subsection (9)(d)(i).

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

331 Section 4. **Effective date.**

332 This bill takes effect on July 1, 2007.

H.B. 226 - Sales and Use Tax - Highways and Public Transportation Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill would have no net impact. There is the potential for a shift between project types within a county.

1/15/2007, 5:24:54 PM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst